

FACE SHEET

(See Instructions on Reverse)

RDB #0887-42

OFFICE OF ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING

OCT 01 1987

Office of Administrative Law
For use of Office of Adm Law

FOR FILING ADMINISTRATIVE REGULATIONS WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

STATE DEPARTMENT OF SOCIAL SERVICES

(AGENCY)

John S. McArthur

AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date:

9/18/87

FILED
In the office of the Secretary of State
of the State of California

OCT 01 1987

At 4:00 o'clock P.M.

MARCH FONG EU, Secretary of State

By *John S. McArthur*
Deputy Secretary of State

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions)
ROSAIE CLARK Chief, Regulations Development Bureau (916) 445-0313
2. Type of filing, (check one) ☐ 30-day Review ☒ Emergency ☐ Certificate of Compliance (Complete Part 4 below)
☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction
3. a. Specify California Administrative Code title and sections as follows:
Title MPP
SECTIONS ADOPTED: 63-074
SECTIONS AMENDED: 63-102, 402 and 503
SECTIONS REPEALED: _____
b. The following sections listed in 3a contain modifications to the text originally made available to the public: _____
4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)
☐ prior to the emergency adoption
☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.
5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?
☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL: _____
6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?
☒ No ☐ Yes, if yes, give date statement was submitted to OAL: _____
7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)
☐ Fair Political Practices Commission (Include FPPC approval stamp) ☐ Building Standards Commission (Attach approval)
☐ State Fire Marshall (Attach approval) ☐ Department of Finance (Attach properly signed Std. 399)
☐ Other _____ (SPECIFY AGENCY)
8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER
b. DATE OF FINAL AGENCY ACTION
c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c))
9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)
a. ☐ Effective 30th day after filing with the Secretary of State.
b. ☒ Effective upon filing with the Secretary of State. October 1, 1987
c. ☐ Effective on _____ as required or allowed by the following statute(s): _____
d. ☐ Effective on _____ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
e. ☐ Effective on _____ (Designate effective date *later than* the normal effective date for the type of order filed.)

INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
- a. Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
 - b. Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
 - c. Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- a. A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
 - b. An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
 - c. If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
 - d. If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
 - e. If an effective date later than specified above is requested, provide the date.

FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- *Seven (7) copies of the regulations.* Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- *A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400* attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- *Complete rulemaking file, with index and sworn statement.* (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

DELEGATED AUTHORITY ORDER

I hereby authorize and designate Rosalie P. Clark, Chief, Regulations Development Bureau as the agency contact person who has authority to make decisions and answer questions regarding this regulation order.

A handwritten signature in cursive script, appearing to read "Linda S. McMahon".

LINDA S. McMAHON
Director

Amend Section 63-102d(6) to read:

63-102 DEFINITIONS (Continued)

63-102

d. (Continued)

- (6) "Drug addiction or alcoholic treatment and rehabilitation program" means any drug addiction or alcoholic treatment and rehabilitation program under Part B of Title XIX of the Public Health Service Act (42 USC 300x et. seq.) conducted by a private nonprofit organization or institution or a publicly operated community mental health center which is certified by the Department of Alcohol and Drug Programs as providing treatment which can lead to the rehabilitation of drug addicts or alcoholics.

(A) "Under Part B of Title XIX of the Public Health Service Act". (42 USC 300x et. seq.) is defined as meeting the criteria which would make it eligible to receive funds, even if it does not actually receive funding under Part B of Title XIX.

Authority Cited: Sections 10553 and 18904, Welfare and Institutions Code.

Reference: Section 18901, Welfare and Institutions Code; 7 CFR 271.2 (April 1987 revision).

Amend Section 63-402.4 to read:

63-402 HOUSEHOLD CONCEPT (Continued)

63-402

4 Residents of Institutions

Individuals shall be considered residents of an institution when the institution provides them with the majority of their meals as part of the institution's normal services and the institution has not been authorized to accept coupons. Residents of institutions are not eligible for participation in the Food Stamp program. The following individuals shall not be considered as residents of institutions: (Continued)

Authority Cited: Sections 10553 and 18904, Welfare and Institutions Code.

Reference: Section 18901, Welfare and Institutions Code; 7
CFR 273.1(e) (April 1987 revision).

Amend Section 63-503.471 to read:

63-503 DETERMINING HOUSEHOLD ELIGIBILITY AND BENEFITS 63-503
LEVELS (Continued)

•4 Households with Special Circumstances (Continued)

•47 Residents of Drug/Alcoholic Treatment and Rehabilitation Programs

•471 Narcotics addicts or alcoholics who regularly participate in drug or alcoholic treatment and rehabilitation programs on a resident basis may be eligible for food stamps, as specified in Section 63-402.4. These programs must provide meals to residents to qualify as eligible institutions. Residents of those programs that do not provide meals may apply as roomers, as provided in Section 63-402.21, and are not subject to the provisions of this section. Resident addicts and alcoholics in centers providing meals shall have their eligibility determined as a one-person household. The CWD shall certify residents of addict/alcoholic treatment centers by using the same provisions that apply to all other applicant households, except that certification must be accomplished through an authorized representative, as described in Section 63-402.62.

(a) Prior to certifying any residents for food stamps, the CWD shall verify that the treatment center is authorized by FNS as a retailer, or is currently certified to participate in the Food Stamp Program meets the eligibility criteria to receive funding under Part B of Title XIX of the Public Health Service Act (42 USC 300x et seq.) as shown by the possession of the following State Department of Alcohol and Drug Program documents:

a•(1) (Continued)

b•(2) (Continued)

(b) FNS authorization is required for those centers redeeming coupons through wholesalers or those centers accepting coupons as payments for prepared meals.

Authority Cited: Sections 10553 and 18904, Welfare and Institutions Code.

Reference: Section 18901, Welfare and Institutions Code; 7 CFR 273.11(e)(1) (April 1987 revision).

OFFICE OF ADMINISTRATIVE LAW CERTIFICATION OF APPROVAL

FILED
In the office of the Secretary of State
of the State of California

OCT 01 1987
At 4:00 o'clock P.M.
MARCH FONG EU, Secretary of State
[Signature]
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Department of Social Services

DAL File No: 87-0918-05E

[Signature]
for **LINDA HURDLE STOCKDALE BREWER**
DIRECTOR

10/1/87
Date

FACE SHEET

87-0921-02
(See Instructions on Reverse)

SUBMITTED FOR REVIEW

SEP 21 1987

OFFICE OF ADMINISTRATIVE LAW
OFFICE OF ADMINISTRATIVE LAW

ENDORSE:

APPROVED FOR

OCT 21 1987

OFFICE OF ADMINISTRATIVE LAW

For use of Office of Adm Law

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

DEPARTMENT OF SOCIAL SERVICES

(AGENCY)

John S. McArthur
AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date:

9/16/87

RDB #0583-37

FILED

In the office of the Secretary of State
of the State of California

OCT 21 1987

At 5:00'clock PM

MARION FONG EU, Secretary of State

By

Deputy Secretary of State
Deputy Secretary of State

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions) TITLE TELEPHONE

Rosalie Clark Chief, Regulations Development Bureau 445-0313

2. Type of filing, (check one) ☐ 30-day Review ☐ Emergency ☐ Certificate of Compliance (Complete Part 4 below)
- ☒ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
- ☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction

3. a. Specify California Administrative Code title and sections as follows:

Title MPP SECTIONS ADOPTED: None

Division 22 SECTIONS AMENDED: See Attached

SECTIONS REPEALED: 22-040

- b. The following sections listed in 3a contain modifications to the text originally made available to the public: 22-000, 001, 017, 021, 022, 028, 049, 054, 055, 062, 063, 064, 113

4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)

- ☐ prior to the emergency adoption
- ☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.

5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?

- ☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL: _____

6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?

- ☐ No ☒ Yes, if yes, give date statement was submitted to OAL December 2, 1982

7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)

- ☐ Fair Political Practices Commission (Include FPPC approval stamp) ☐ Building Standards Commission (Attach approval)
- ☐ State Fire Marshall (Attach approval) ☐ Department of Finance (Attach properly signed Std. 399)
- ☐ Other _____ (SPECIFY AGENCY)

8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER October 3, 1986

b. DATE OF FINAL AGENCY ACTION September 16, 1987

c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c)) August 10--August 25, 1987

9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)

- a. ☒ Effective 30th day after filing with the Secretary of State.
- b. ☐ Effective upon filing with the Secretary of State.
- c. ☐ Effective on _____ as required or allowed by the following statute(s): _____
- d. ☐ Effective on _____ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)
- Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
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 - b. Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
 - c. Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- a. A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
 - b. An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
 - c. If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
 - d. If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
 - e. If an effective date later than specified above is requested, provide the date.

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- *Seven (7) copies of the regulations.* Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- *A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400* attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- *Complete rulemaking file, with index and sworn statement.* (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

Attachment, STD 400

Item 3a, Sections Amended

RDB #0583-37

SECTIONS AMENDED

22-000	22-025	22-056
22-001	<u>22-026</u>	22-059
22-002	22-027	22-060
22-003	22-028	22-061
22-004	22-043	22-062
22-005	22-045	22-063
22-009	22-047	22-064
22-010	22-049	22-065
22-015	22-050	22-101
22-017	22-051	22-105
22-021	22-052	22-107
22-022	22-053	22-109
22-023	22-054	22-113
22-024	22-055	

DELEGATED AUTHORITY ORDER

I hereby authorize and designate Rosalie P. Clark, Chief, Regulations Development Bureau as the agency contact person who has authority to make decisions and answer questions regarding this regulation order.

A handwritten signature in cursive script, appearing to read "Linda S. McMahon".

LINDA S. McMAHON
Director

- 1) Amend Section 22-000 to read:

DIVISION 22 STATE HEARING AND REQUEST FOR REVIEW

CHAPTER 22-000 STATE HEARING - GENERAL

22-000

A state hearing is a form of administrative hearing whereby a dissatisfied claimant may obtain an impartial review of an agency action. Since the right to request a state hearing belongs to the claimant, the following regulations shall be interpreted in a manner which protects the claimant's right to a hearing.

- .1 The responsibility for providing a full and impartial hearing to the claimant rests jointly with the county and the state department for whom the county is acting as agent.

- .11 The county has a responsibility shall include:

~~1)~~.111 to ~~investigation~~ investigation of the case and assistance to the claimant prior to the hearing; and

~~2)~~.112 to ~~presentation~~ presentation of the county's position during the hearing; and

~~3)~~.113 to ~~comply~~ compliance with state hearing decisions.

The state department is responsible for the overall administration of the hearing process and the conduct of each hearing.

- .12 The state department is responsible for the overall administration of the hearing process and the conduct of each hearing.

- .13 Since the right to request a state hearing belongs to the claimant, the regulations in this chapter shall be interpreted in a manner which protects the claimant's right to a hearing.

- .14 Although the specific duties and responsibilities of each agency are set forth in the following regulations, these rules shall not be used to suppress the claimant's right to a hearing. For example, although the county shall justify its action when appropriate, the county shall not discourage the claimant from proceeding with the hearing request nor relinquish its responsibility to assist the claimant in this process. The hearing officer administrative law judge shall conduct the

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hearing according to applicable procedures and the claimant ~~must~~ shall be allowed to present evidence relevant to his/her own case.

.15 The regulations in this chapter shall apply to all public assistance programs subject to a state hearing.

.16 Any part of these regulations which apply only to specific aid programs ~~will~~ shall be so designated.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 10950, Welfare and Institutions Code; 45 CFR 205.10 and 7 CFR 273.15(a).

2) Amend Section 22-001 to read:

22-001 DEFINITIONS

22-001

(a) The following definitions shall apply wherever the terms are used throughout Division 22.

†(1) Adequate Notice - A written notice informing the claimant of the action the county intends to take, the reasons for the intended action, the specific regulations supporting such action, an explanation of the claimant's right to request a state hearing, and if appropriate, the circumstances under which aid will be continued if a hearing is requested. In the Food Stamp Program, see Section 63-504.2. When appropriate the notice shall also inform the claimant regarding what information or action, if any, is needed to reestablish eligibility or determine a correct amount of aid. In all cases, the notice shall be prepared on an appropriate State Department of Social Services' Notice of Action Form, Form DFA 377 Series, or a county substitution such as a county-developed computerized equivalent which has been approved by the Department of Social Services. The notice shall be prepared in clear, nontechnical language and shall be mailed to the claimant in duplicate.

†(2) Administrative Law Judge Hearing Officer - A person designated by the Director and thereafter assigned by the Chief Referee Administrative Law Judge to conduct state hearings and administrative disqualification hearings and propose decisions.

The Administrative Law Judge shall prepare fair, impartial and independent proposed decisions.

HANDBOOK

†(3) Aid - For purposes of this Division "aid" includes all public assistance programs subject to a state hearing.

(A) Such programs include Aid to Families with Dependent Children (AFDC), the State administered programs for recipients of SSI/SSP (Division 46), Aid to the Potentially Self-Supporting Blind (APSB), the Cuban Refugee Program (CR), the Indochinese Refugee Assistance Program (IRAP), Refugee Resettlement Program (RRP), the Cuban/Haitian Entrant Program (CHEP), the Food Stamp Program (FS), the California Medical Assistance Program (Medi-Cal), and the Social

Services Programs described in Division 30 of the Manual of Policies and Procedures (MPP), Women, Infant and Children Program (WIC), Aid for the Adoption of Children Program (AAC), Adoption Assistance Program (AAP), and Multipurpose Senior Services Program (MSSP).

➤3(4) Alternate Decision - A decision issued by the Director which differs from the ~~hearing officer's~~ administrative law judge's proposed decision. (See Section 22-062.)

➤4(5) Authorized Representative - An individual or organization that has been authorized by the claimant or designated by the administrative law judge or Department pursuant to Sections 22-010 and 22-101 to act for and represent the claimant in any and all aspects of the state hearing or administrative disqualification hearing.

(A) An authorized representative may include legal counsel, a relative, a friend, or other spokesperson.

HANDBOOK

(B) If the claimant has designated an authorized representative, any references to claimant shall also apply to the authorized representative unless otherwise stated.

(C) The claimant need shall not be required to designate an authorized representative, and may represent him/herself at all stages of the hearing process. (Also see Sections 22-010 and 22-101.)

➤5(6) Chief Referee Administrative Law Judge - The person designated and employed by, and directly responsible to the Director of the Department of Social Services and charged with the administration of state hearings and administrative disqualification hearings.

➤6(7) Claimant - ~~Claimant is a~~ The person who has requested a state hearing and is or has been either:

➤61(A) An applicant for or recipient of aid, as defined in ➤2 (3) above;

➤62(B) A foster parent, boarding home or institution which or foster care provider who requests a hearing on behalf of the foster child where the county welfare department CWD takes action to affect the child's aid and the child resides with

or has resided with the foster parent, boarding home or institution foster care provider.

1. There is no right to a state hearing concerning the placement or removal of a foster child. (For grievance procedures applicable to the placement or removal of a foster child, see Section 30-214378.)

2. There is a right to a hearing concerning group home rates established by the state.

63(C) A representative of the estate of a deceased applicant or recipient (see Sections 22-003, 314.4 and .5).

64(D) The caretaker relative of a child with regard to the child's application for or receipt of aid.

(E) The guardian or conservator of an applicant or recipient.

(F) The sponsor of an alien, see MPP Section 43-119, 44-353, and 63-804.1.

(8) Compliance related issues - Issues which were not resolved in the prior state hearing decision or resulted from the prior hearing decision requiring the county to make further determinations regarding the claimant's eligibility or amount of benefits.

7(9) County or CWD - For purposes of this division, "county" or "CWD" generally refers to the county welfare department. The term "county welfare department" is used in Sections 22-001(a)(12), 22-003 and 22-023 to mean the welfare department in the county in which the recipient resides or the county that has taken the action or inaction with which the recipient is dissatisfied. Any references to "county" or "CWD" however, may also refer to any agency state department or contractor whose actions may be subject to a state hearing.

(10) County Action - All actions which require adequate notice (see Section 22-021) and any other county action or inaction relating to the claimant's application for or receipt of aid.

(11) County Hearing Officer - A person, designated by the County Welfare Director, to conduct preliminary hearings

and prepare written decisions. Such person shall be an impartial party who is not in any way connected with the previous actions or decisions in the case being appealed.

•8(12) County or CWD Representative - An employee who is assigned the major responsibility for preparing and/or presenting a hearing case on behalf of the CWD. (See Section 22-023.123.)

(13) Days - Days shall refer to calendar days unless otherwise specified.

•9(14) Decision of the Director - The decision issued by the Director which resolves a state hearing case. The decision may be in the form of an adopted proposed decision or an alternate decision.

(A) The decision may be in the form of an adopted proposed decision, a final decision or an alternate decision.

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•10(15) Department - The Department of Social Services or the Department of Health Services whichever is appropriate.

•11(16) Director - Refers to the Director of the Department of Social Services or the Director of the Department of Health Services whichever is appropriate.

•12(17) Filing Date

•121(A) All written requests for hearings shall be date stamped by the agency Office of the Chief Administrative Law Judge or the CWD on the day the request is received. Unless the evidence indicates otherwise, the filing date of the claimant's written request for a state hearing shall be determined as follows:

(a)1. If the request is mailed to the Office of the Chief Referee Administrative Law Judge, or to the county welfare department CWD, the postmark date of the envelope;

(b)2. If the request is delivered by hand to the Office of the Chief Referee Administrative Law Judge or to the county welfare department CWD, the date stamped on the request for hearing;

~~(d)~~3. If the date cannot be determined by (a1) or (b2) or ~~(c)~~, the date the request was signed.

~~(e)~~4. If the date cannot be determined by the methods described above, ~~two~~ three days before the request was stamped "received" by the Office of the Chief Referee Administrative Law Judge or the county welfare department CWD;

~~122~~(B) The filing date of an oral request shall be the date the request is received by the Department of Social Services.

~~123~~(C) If the claimant is provided a preliminary hearing in accordance with Section 22-024, the filing date for purposes of meeting the 90-day processing limitation set forth in Section 22-060, shall be the date of the decision from the preliminary hearing.

(D) If a written request is filed erroneously with the Office of Chief Administrative Law Judge or with a CWD in a county in which the claimant does not reside and in which the CWD has not taken any action or inaction with which the claimant is dissatisfied, the filing date shall be determined in the same manner as set forth above in Subsection (A).

(18) Final Decision - The decision prepared and adopted by the administrative law judge resolving a state hearing case and which shall be treated, for all purposes, as the decision of the Director.

(19) Holiday - A Saturday, Sunday, or the holidays as specified in Government Code Sections 6700 et seq.

~~14~~(20) Preliminary Hearing - A procedure which provides a claimant who has requested a state hearing an opportunity to present his/ or her case directly to the county welfare department CWD. The preliminary hearing procedure is available only in counties which have developed a preliminary hearing system under prior written approval by the Chief Referee Administrative Law Judge. (See Section 22-024).

~~15~~(21) Proposed Decision - The decision prepared by the Referee administrative law judge concerning a state

hearing case which he/she recommends to the Director for adoption. A proposed decision will not resolve a state hearing case unless it has been adopted by the Director or adopted by operation of law. (See Section 22-062, Action by the Director.)

(A) A proposed decision will not resolve a state hearing case unless it has been adopted by the Director or adopted by operation of law. (See Section 22-062, Action by the Director.)

(22) State Hearing - A form of administrative hearing mandated by federal and state law whereby a dissatisfied claimant may obtain an impartial review of a county action.

16(23) Timely Notice - A form of written notice which meets the requirements of "adequate notice" and that is mailed to the person affected at least ten 10 days prior to before the effective date of the action. See Section 22-022.4 for computation of the 10-day period.

17 If the last date of the performance of any act required by these regulations to be performed within a specified period of time is a holiday, then such period shall be extended to the next day which is not a holiday. "Holiday" as used herein means Sunday or the holidays specified in Government Code Sections 6700 and 6701.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10556, 10955, 10958, and 11008.13, Welfare and Institutions Code; 7 CFR 246; 45 CFR 205.10(a)(3)(iii), (a)(4)(i)(A), and (a)(4)(i)(B).

3) Amend Section 22-002 to read:

22-002 DETERMINATION OF TIME LIMITS

22-002

.1 If the last date of for the performance of any act required by these regulations to be performed within a specified period of time is a holiday, then such period shall be extended to the next day which is not a holiday. "Holiday" as used herein means Sunday or the holidays specified in Government Code Sections 6700 and 6701.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Code of Civil Procedures Section 12a.

4) Amend Section 22-003 to read:

22-003 RIGHT TO STATE HEARING

22-003

- .1 A state hearing ~~is~~ shall be available to a claimant who is dissatisfied with a county action and requests a hearing in the manner set forth below. "County action" shall include ~~all~~ actions which require adequate notice (see Section 22-021) and any other county action or inaction concerning the claimant's application for or receipt of aid.
- .11 There is no right to a state hearing regarding a food stamp administrative disqualification, unless the issue is the CWD's method of implementing a food stamp administrative disqualification hearing decision. (See Division 22, Chapter 22-200, Division 20, Chapter 20-300, and Chapter Division 63, Section 63-805.)
- .12 Notwithstanding any other regulation, there is no right to a state hearing when either state or federal law requires automatic grant adjustments for classes of recipients, unless the reason for the request for the state hearing is incorrect grant computation.
 - .121 In the event of such automatic grant adjustment, the Office of the Chief Referee Administrative Law Judge shall promptly review the requests for state hearing to determine whether the basis for a request is the automatic grant adjustment. See Section 22-054.
 - .122 In the AFDC Program, all those who request a hearing when the change is because either state or federal law required an automatic grant adjustment shall be treated as though the subject of the hearing was not a law change until the time of the hearing.
 - (a) If the hearing officer administrative law judge determines that the subject of the hearing was the wisdom or validity of such a law change, the request shall be permitted to be dismissed pursuant to Section 22-054.231.
- .13 The placement of a household on an alternate issuance system and the length of time the household is on this system are shall not be subject to the State hearing process. See Section 63-605.326.

Authority Cited: Sections 10553, 10554, and 18904, Welfare and Institutions Code.

Reference: Section 10950, Welfare and Institutions Code, 7 CFR 273.16(d) and Turner v. McMahon Consent Decree, U.S.D.C., San Francisco, Civil Action No. C 81-4457 TEH.

- 5) Amend, renumber and entitle Section 22-003.2 to new Section 22-004 to read:

22-004 REQUEST FOR A STATE HEARING

22-004

2.1 A request for a state hearing may be either written or oral.

2 A written request concerning county administered state aid programs shall be filed with the county welfare department CWD, and for all other state aid programs, the request shall be filed with the State Department of Social Services in Sacramento. ~~All oral requests shall made to the State Department of Social Services in Sacramento. The Department of Social Services shall maintain a toll free number for the receipt of oral hearing requests.~~

21 A written request for hearing may be made in any form.

211 However, claimants are encouraged to use the reverse side of the Notice of Action (NA) or DFA 377 form series or other DSS-approved forms.

212 The county agency shall assist the claimant in filing a request for a state hearing. The request for a state hearing should identify the aid program involved, as well as, the reason for dissatisfaction with the particular action or inaction involved in the case. If an interpreter will be necessary, the claimant should so indicate on the hearing request.

22 When a written request for a state hearing is received by the county welfare department CWD, a copy shall be forwarded to the Office of the Chief Referee Administrative Law Judge in Sacramento no later than three (3) working days after its receipt.

221 If the request for hearing concerns an action which is subject to the adequate notice provisions, a copy of the applicable Notice of Action shall be sent with the request.

3 Claimant Dies After Request for a State Hearing An oral request shall be filed in person or by telephone at the Department of Social Services in Sacramento.

31 A toll-free number is available for this purpose. HANDBOOK

.4 If a claimant dies after a request for a state hearing has been filed, yet before a hearing has been held, the proceeding may only be continued by, or on behalf of, the representative of the claimant's estate.

.341 The legal representative of a claimant's estate is the executor/executrix or administrator/administratrix of the estate. If there is no estate to be probated, the representative may be a relative (i.e., parents, spouse, children, siblings, grandparents or grandchildren of the deceased claimant).

.45 Request for a State Hearing After Death of Claimant If the prospective claimant dies before filing a request for a state hearing, a request may only be filed by or on behalf of the representative of the claimant's estate as defined specified in .341 above.

Authority Cited: Section 10554, Welfare and Institutions Code.

Reference: Sections 10950 and 10965, Welfare and Institutions Code; 7 CFR 273.15(h).

- 6) Amend, renumber and entitle Section 22-003.5 to new Section 22-005 to read:

22-005 REQUEST FOR REVIEW

22-005

5 Request for Review

- 1 The claimant may request a review of any county action by the county or by the Department without requesting a state hearing. (See Chapter 22-100, and Section 63-804.4 for conferences under the Food Stamp Program). The review by the Department is conducted by the Public Inquiry and Response Unit. A request for review is to be distinguished from the preliminary hearing procedure described in Section 22-024.

11 The review by the Department is conducted by the Public Inquiry and Response Unit. A request for review is to be distinguished from the preliminary hearing procedure described in Section 22-024.

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- 2 If the claimant remains dissatisfied after that review has been completed, the claimant may still request a state hearing.
- 3 However, the time limitations involved in requesting a state hearing (see Sections 22-009 and 22-022) ~~will~~ shall not be suspended during the pendency of a request for review.
- 4 While conducting the review, the County or Department shall inform the claimant of the right to request a state hearing including, if applicable, the right to receive aid paid pending.

Authority Cited: Section 10553, Welfare and Institutions Code.

Reference: Section 10950, Welfare and Institutions Code;
45 CFR 205.10(a)(6); and 7 CFR 273.15.

7) Amend Section 22-009 to read:

22-009 TIME LIMIT ON REQUEST FOR A STATE HEARING

22-009

- .1 The request for a state hearing ~~must~~ shall be filed within 90 days after the date of the action or inaction with which the claimant is dissatisfied.
 - .11 If the claimant received adequate notice of the action (see Section ~~22-021~~ 22-001(a)(1)), the date of the action ~~will~~ shall be the date on which the notice was mailed to the claimant.
 - .12 In all other cases, the date of the action or inaction shall be considered to be the date the action or inaction was discovered. The date of discovery is the date the claimant knew, or should have known, of the action or inaction, and of the right to request a state hearing, including the procedures necessary to obtain a hearing concerning such action or inaction.
 - .123 Where a request for a state hearing concerns the current amount of aid the request ~~must~~ shall be filed within 90 days, but the period of review ~~will~~ shall extend back to the first of the month in which the first day of the 90 day period occurred.
 - .13 Nothing herein shall preclude the filing of a request for a state hearing within one year after the date of the action with which the claimant is dissatisfied if such date, as defined in 22-009.11, falls on or before December 31, 1979. If the date of the action falls on or after January 1, 1980, the request must be filed within 90 days.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 10951, Welfare and Institutions Code.

8) Amend Section 22-010 to read:

22-010 AUTHORIZED REPRESENTATIVE

22-010

- .1 The claimant may authorize a representative to represent him/her at during all aspects of the hearing process by signing a written statement to that effect or by stating at the hearing that the person is so authorized.
 - .11 The authorization may be limited in scope or duration by the claimant, and may be revoked by the claimant at any time.
- .2 If the claimant has not authorized the representative in writing and is not present at the hearing, the person may be recognized as the authorized representative if he/she is an attorney or if, at the hearing, the person swears or affirms under penalty of perjury that the claimant has so authorized him/her to act as the claimant's authorized representative, and the hearing officer administrative law judge further determines the person is so authorized.
 - .21 The hearing officer administrative law judge may make the determination by contacting a collateral source (~~is~~ e.g., the claimant).
 - .22 In all such cases a written authorization ~~must~~ shall be submitted after the hearing within five days from the hearing unless this time period is extended by the administrative law judge.
 - .221 If no written authorization is submitted, the case shall be considered abandoned and shall be dismissed by written decision after the hearing. See Section 22-054.
 - .23 If, at the hearing, the person cannot swear or affirm under penalty that the claimant has authorized him/her to act as the claimant's authorized representative because the claimant is incompetent, in a comatose condition, suffering from amnesia or a similar condition, the hearing may proceed at the administrative law judge's discretion if the person is a relative or a person who has knowledge of the claimant's circumstances and who completed and signed the Statement of Facts on the claimant's behalf.
 - .231 This person shall also sign a declaration under penalty of perjury describing the claimant's

condition and further declaring that he/she is acting in the best interests of the claimant.

- 3 Whenever the claimant is represented by an authorized representative, the authorized representative shall be furnished a copy of all notices and decisions concerning the state hearing which are provided to the claimant.
- 4 After a person or organization has been authorized to represent the claimant, the county, after notification of the authorization, shall simultaneously send copies to the authorized representative of any subsequent correspondence that it has with the claimant regarding the state hearing, to the claimant and the authorized representative simultaneously.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 10955, Welfare and Institutions Code;
45 CFR 205.10(a)(3)(iii); and 45 CFR
205.10(13)(ii).

9) Amend Section 22-015 to read:

22-015 COUNTY WELFARE RESPONSIBILITY

22-015

.1 Sections 22-015 through 22-027 describe the responsibilities of the county in the state hearing process. Each county shall furnish to the Office of the Chief Administrative Law Judge the name of an individual who, in coordination with the Chief Referee Administrative Law Judge, is responsible for discharging the requirements of these Sections 22-015 through 22-028.

.11 Sections 22-015 through 22-028 describe the responsibilities of the county in the state hearing process.

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Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 10554, Welfare and Institutions Code.

10) Amend Section 22-017 to read:

22-017 EXPLANATION OF RIGHT TO STATE HEARING

22-017

.1 At the time of application, the county agency shall provide the applicant with the following:

.11 ~~aA~~ thorough explanation of the right to request a state hearing and shall also provide to each applicant a pamphlet prepared by the Department concerning state hearings.

.111 The explanation shall be provided in clear and nontechnical language.

.12 Pamphlet PUB 13 (7/85), "Your Rights Under California Welfare Programs," prepared by the Department concerning client rights, complaints and state hearings.

.2 The county shall also provide such an the explanation required in .11 and .111 above when a claimant makes an informal complaint with the county agency.

Authority Cited: Sections 10553, 10554, and 18904, Welfare and Institutions Code.

Reference: Section 10554, Welfare and Institutions Code.

11) Amend Section 22-021 to read:

22-021 ADEQUATE NOTICE

22-021

- 1 Except as provided in .2 below, the county shall give the claimant adequate notice as defined in Section 22-001(a)(1) in the following instances:
 - 11 When aid is granted or increased;
 - 12 When aid is denied, decreased, suspended, cancelled, or discontinued, or terminated;
 - 121 A decrease shall include an overpayment adjustment and balancing.
 - 13 When the county demands repayment of an overpayment or a food stamp overissuance;
 - 14 When the county takes action after the claimant has conditionally withdrawn a request for a state hearing (see Section 22-054).
 - 15 When a food stamp application is pended (see Section 63-504.2234).
 - 16 When the county determines that immediate need does not exist (see Section 40-129).
 - 17 When the county takes action regarding compliance related issues resulting from state hearing decisions (see Sections 22-001(a)(8) and 22-028).
 - 18 When the county takes action to change the manner or form of payment to a protective or vendor payment.
- 2 The adequate notice requirement is not applicable to certain actions involving Social Services (Division 430) and Food Stamps (MPP Section 63-504.242266).
- 3 In all cases, the notice shall be prepared on approved Department forms or a county substitution which has been approved by the Department of Social Services, including but not limited to a county-developed computer equivalent.
- 4 The notice shall be prepared in clear, nontechnical language.
- 5 The notice shall be mailed or given to the claimant in duplicate.

.6 When appropriate, the notice shall also inform the claimant regarding what information or action, if any, is needed to reestablish eligibility or determine a correct amount of aid.

Authority Cited: Sections 10553, 10554, and 18904, Welfare and Institutions Code.

Reference: Section 11004, Welfare and Institutions Code; 45 CFR 205.10; and 7 CFR 273.13.

12) Amend Section 22-022 to read:

22-022 TIMELY NOTICE - AID PENDING HEARING

22-022

- .1 Except as provided below, in all instances where the county action would result in a discontinuance, termination, suspension, cancellation, or decrease of aid, or in a change in the manner or form of payment to a protective or vendor payment, the county shall mail timely and adequate notice as defined in Sections 22-001~~+(a)(1)~~ and 22-001~~+(a)(23)~~ to the persons affected. The notice shall be mailed to the person affected at least ten days prior to the effective date of the proposed decision.
- .11 The provisions of Section 22-022 shall not apply to certain actions involving Social Services (see Division ~~+(30)~~).
- .12 In the Food Stamp Program the provisions of Section 22-022 are shall be limited and modified by Sections 63-504.242 .266, .267, 63-804.6, and 63-107.9.
- .13 When either state or federal law requires automatic grant adjustments for classes of recipients, the Department shall provide timely and adequate notice to the persons affected or shall direct the county to give such notice at least ten days prior to the effective date of the adjustment.
- .14 In the State-only AFDC-U Program, the provisions of Section 22-022 are limited and modified by Sections 41-440.12(d), (g), (h), and (i)~~41-440.127, 41-440.128, and 41-440.129.~~
- .2 Timely notice ~~is~~ shall not be required in the following instances, although the county shall send adequate notice as soon as possible but no later than the effective date of the action:
 - (a) The county has factual information confirming the death of the person affected;
 - (b) The county receives a clear written statement signed by the person affected that:
 - ~~that~~ (1) he/she no longer wishes aid or,
 - ~~that~~ (2) gives information which requires discontinuance or reduction of aid and the person has indicated,

in writing, that he/she understands that this must be the consequence of supplying such information;

- (c) The person affected has been admitted or committed to an institution, and further payments to that individual do not qualify for federal financial participation under the state's plan;
- (d) The person affected has been placed in a skilled nursing facility, intermediate care facility or long-term hospitalization;
- (e) The whereabouts of the person affected are unknown and the county mail directed to him/ or her has been returned to the Post Office indicating no known forwarding address.
 - (1) The person's aid payment must, however, shall be made available to him/ or her if his/ or her whereabouts become known during the payment period covered by the returned check.
- (f) An Aid to Families with Dependent Children (AFDC) child is removed from the home as a result of a judicial determination, or voluntarily placed in foster care by his/ or her parent or legal guardian.
- (g) The person affected has been accepted for aid in a new jurisdiction, and that fact has been established by the county previously providing aid.
- (h) A change in level of medical care is prescribed by the recipient patient's physician or modified by utilization review.
- (i) A special allowance granted for a specific period is terminated, and the recipient has been informed in writing at the time of initiation that the allowance shall automatically terminate at the end of the specified period.
- (j) The county receives a complete Monthly Eligibility Report (CA 7) after the eleventh calendar day of the report month and the county's action to discontinue or decrease aid is a result of the information on the CA 7 or the recipient's failure to submit a timely or complete report of earnings without good cause as specified in Section 40-181.23.

(1) Subsection (j) is enjoined by the injunction in Saldivar v. McMahon.

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.3 If timely notice is not required under the provisions of Section 22-022.2, and the claimant requests a state hearing within ten days of the required adequate notice, aid shall be reinstated retroactively, according to the provisions of Section 22-022.5.

.4 In computing the notice period required by Section 22-022.1, the date of mailing is excluded. The ten-day period does shall not include the date of mailing, or the date that the action is to take effect.

.41 Thus, if the effective date of the action is to be June 1, the notice ~~must~~ shall be mailed no later than May 21.

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.5 Aid Pending a Hearing

.51 Except as provided in Sections 22-054.1, 22-022.526, and 22-023.1122, and 41-440.12(i), when the claimant files a request for a state hearing prior to the effective date of the notice of action, which is subject to Section 22-022.1, aid shall be continued in the amount that the claimant would have been paid if the proposed action were not to be taken. This is provided the claimant does not voluntarily and knowingly waive aid. In the Food Stamp Program, benefits shall be continued on the basis authorized immediately prior to the notice of adverse action.

.51 EXAMPLE: If the notice is mailed on April 20th to be effective May 1st, the request ~~must~~ shall be filed before May 1.

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.52 If the notice proposing action is required to be timely and is not, the request shall be required to be filed before the next date on which the proposed action could become effective based on timely notice.

.521 EXAMPLE: If the notice is mailed April 21 to be effective May 1, the request must be filed before the next regular benefit issuance date which occurs at least ten days after the April 21 notice.

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.51122 In the Food Stamp Program if a recipient fails to file a request before the effective date of the proposed action, aid pending is appropriate provided the recipient establishes good cause with the Chief Referee Administrative Law Judge or the

hearing officer administrative law judge (see Section 63-804.613).

(a) The criteria for good cause shall be those specified in Section 22-053.146.

•52 Exceptions to Aid Pending

•6 Aid pending shall cease when:

•5261 The claimant withdraws or abandons the request for a state hearing (see Section 22-054.1). If the withdrawal is conditional, the county shall provide aid pending retroactively and prospectively if the request for a hearing is subsequently reinstated (see Section 22-054.112211), provided that the claimant has complied with conditions set forth in the agreement accompanying the conditional withdrawal.

•611 If a nonappearance occurs but the hearing request is subsequently reinstated and the hearing is rescheduled as specified in Section 22-054.22, the county shall reinstate any applicable aid pending.

•5262 The claim has been denied or dismissed by the preliminary hearing process. See specified in Section 22-024.

•5263 The hearing officer administrative law judge determines, based on the record of the state hearing, that the issue involved in such hearing is one of law or change in law and not one of incorrect application of law.

(a) •631 If the request for hearing involves multiple issues, the hearing officer administrative law judge shall determine that as to certain issues aid pending is appropriate while as to other issues aid pending is not appropriate. In such cases, aid may be reduced to the extent aid pending is not appropriate.

•632 If the matter is rescheduled for further hearing as specified in Section 22-062.13, the aid pending determination made by the administrative law judge at the original hearing shall be considered void. Aid shall be retroactively reinstated and continued in the amount the claimant would have been paid if the proposed action were not to be

taken, provided the claimant does not voluntarily and knowingly waive aid.

.5264 The claimant voluntarily and knowingly, in writing, waived the continuation of aid.

.641 The county representative ~~may~~ shall be permitted to explain to the claimant the right to waive aid pending. ~~However, a~~ but shall not be permitted to request ~~for~~ a waiver is prohibited.

.5265 The claimant is granted a postponement of the hearing by the administrative law judge at the hearing for a reason that does not constitute good cause ~~(see as specified in Section 22-053.1116).~~

.651 This provision ~~does~~ shall not apply to the Food Stamp Program.

.5266 The case has been rescheduled after the claimant or authorized representative failed to appear for a reason that does not constitute good cause ~~(see Section 22-054.122a).~~ In the Food Stamp Program, the certification period expires (see Section 63-804.642(a)).

.67 After the hearing, and within ten calendar days from receipt of the aid paid pending decision, the claimant or the county may submit ~~in writing,~~ a written request to the Office of the Chief Referee Administrative Law Judge for reconsideration of the aid paid pending decision.

.71 Each party shall be notified of the request and the result of the reconsideration.

.78 Nothing in this Chapter shall prohibit the county from instituting any appropriate changes in the recipient's grant while a state hearing is pending, provided that the factual basis of the proposed action is different from the action upon which the recipient is receiving aid pending.

.81 ~~However, a~~ All such actions ~~are~~ shall otherwise be subject to the provisions of this Chapter.

Authority Cited: Sections 10553, 10554, and 18904, Welfare and Institutions Code.

Reference:

45 CFR 205.10(a)(4), (a)(4)(i), (a)(6), and
(a)(6)(i); and 7 CFR 273.15(k).

13) Amend Section 22-023 to read:

22-023 COUNTY WELFARE AGENCY RESPONSIBILITY PRIOR
TO THE STATE HEARING

22-023

•1 Preliminary Review

•11 Upon receipt of a request for hearing or notice from the Department that a recipient has filed a request for a state hearing, the county shall provide aid pending the state hearing in accordance with Section 22-022, when entitlement exists.

•11 Such payment shall be either placed in the U.S. Mail or available for hand-delivery to the recipient (if agreed to by the county and recipient) within five (5) working days of the receipt of the hearing request by the appropriate agency as specified in Section 22-003.24, or the date the regular scheduled aid payment would otherwise have been paid to the recipient, whichever is later.

•12 If the claimant is not entitled to aid pending the hearing is not appropriate under Section 22-022, the county may continue with its proposed action.

•1+21 Unless the evidence indicates otherwise, the receipt date for purposes of providing (issuing) aid paid pending shall be determined as follows:

(a) The date the written request is received by the county welfare department CWD for county administered aid programs for county administered aid programs or the date the request is received by the State Department of Social Services for all other state aid programs.

(b) The date the oral request is received by the State Department of Social Services in Sacramento.

•1+22 The county welfare department CWD shall compute the five (5) day time limitation for paying aid paid pending from the date:

(a) A written request for a state hearing is received by the county welfare department CWD.

(b) The county welfare department CWD is notified by the Office of the Chief Referee Administrative Law Judge that it has received a written request for a state hearing.

(c) An oral request for hearing is received by the State Department of Social Services in Sacramento.

•1123 Upon receipt of an oral hearing request, the State Department of Social Services shall, within one ~~11~~ working day of that receipt, notify the respective county that an oral hearing request has been filed and provide the county with sufficient information to provide aid paid pending when appropriate.

•1124 Misdirected Requests

(a) In the event that a written hearing request is filed erroneously with the Office of the Chief Referee Administrative Law Judge, rather than with the county welfare department CWD, the State Department of Social Services shall forward such requests to the respective county.

(b) For requests filed erroneously in a county in which the claimant does not reside, and in which the county welfare department CWD has not taken any action or inaction with which the claimant is dissatisfied, these requests shall be forwarded to the State Department of Social Services. The State Department of Social Services shall forward such requests to the proper county as defined in Section 22-001.7(a)(9).

(c) The provisions of Sections 22-023.1122(a) and (b) shall be applicable to misdirected requests.

•1125 For state aid programs not administered by the county welfare department CWD, the Department shall issue aid paid pending, when entitlement exists, to a recipient within five ~~5~~ working days of the date a written or oral request for a state hearing is received by the State Department of Social Services.

- 123 Each case for which a state hearing request has been filed shall be assigned to a county representative who shall assume the major responsibility for preparing the case in accordance with the requirements of this Division and/or presenting it at the hearing. The county representative shall not have had immediate prior involvement with the case.

•2 Preparation for the State Hearing

•2 Prior to the hearing, the county representative shall:

- 21 Determine the issues raised by the hearing request.

- 211 If the request for hearing does not clearly set forth the claimant's basis for appeal, the county representative shall immediately contact the claimant for clarification.

- 22 After determining the issues, the county representative shall review the applicable statutes, regulations and policies in light of the evidence which exists in the case record.

- 221 In conducting this initial review, the representative shall contact the eligibility worker and other county personnel as appropriate.

- 222 When assistance of the State Department of Social Services or the State Department of Health Services is required to clarify any questions, such assistance shall be sought without delay.

- 23 After conducting the initial review, the county representative shall make a determination concerning the appropriateness of the county action.

- 231 If the county representative concludes that the county action was incorrect, the county representative shall contact the claimant and attempt to resolve the case without a hearing.

- (a) The county representative shall have the authority to make such a decision. The conditional withdrawal procedure described in Section 22-054 is usually appropriate in such instances.

- 232 If the county representative ~~determines~~ concludes that the county action was correct, the county representative shall contact the claimant and:

a. (a) Inquire if the claimant plans to attend the hearing;

b. (b) Determine if there are any further contentions which the claimant will attempt to raise at the hearing; and

c. (c) Provide any and all information which can be of assistance to the claimant in preparing for the hearing. This shall include revealing to the claimant any and all regulations and evidence including that which might be favorable to the claimant's case. The county representative may explain to the claimant the right to withdraw the request for hearing; ~~however,~~ a but shall not be permitted to request for such a withdrawal ~~is prohibited~~. The claimant shall also be informed of the availability of any free legal representation. If the claimant is not fluent in English and if bilingual services apply ~~(see as specified in Section 21-115)~~, an explanation of the hearing procedures shall be made in the claimant's language.

- 24 The county representative shall determine if an interpreter will be necessary at the hearing or if a home hearing will be necessary.

•241 The county representative shall notify the Office of the Chief Referee Administrative Law Judge if the claimant has requested an interpreter or home hearing.

•242 The county representative shall ~~also~~ report without delay to the Chief Referee Administrative Law Judge any changes in the claimant's address or any other circumstances which might affect the necessity for or conduct of the hearing.

(a) This responsibility to report changes in the claimant's circumstances continues after the hearing until a decision is rendered.

•24±3 In the Food Stamp Program if a household requests a state hearing and informs the county that the household expects to leave the State prior to a normally scheduled hearing date, the county representative shall inform the Office of the Chief Referee Administrative Law Judge so that a hearing date may be scheduled and a decision rendered on an expedited basis.

•25 Prior to each hearing, the county representative shall prepare a typewritten position statement.

•251 The position statement shall summarize the facts of the case and set forth the regulatory justification for the county's action.

(a) If the issue concerns the amount of aid, grant adjustment, or a demand for repayment, the county representative must shall include in the position statement a complete final budget computation, month by month, for the period in issue.

(b) The county shall include as attachments to the position statement copies of documentary evidence and a list of witnesses which the county intends to use during the hearing.

(1) The documents shall be itemized on the last page of the position statement and attached as exhibits.

•25±2 If the county has received a 10-day prior notice of the date and time of the scheduled hearing, a copy of the position statement shall be made available to the claimant at the county welfare department CWD, not less than two working days prior to the date of the scheduled hearing.

Example:

The hearing is scheduled for Friday. Absent any intervening holidays, the position statement shall be available by the opening of business the oreceding Wednesday.

•25±3 If the county, when required, does not make the position statement available not less than two working days prior to the date of the scheduled

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hearing, or if the county modifies the position statement after providing the statement to the claimant, the hearing shall be postponed upon the request of the claimant conditioned upon the waiver of decision deadlines contained in Section 22-060. A modification is defined as a change which substantively revises the position statement.

•2534 A postponement due to the county not making the position statement available within not less than two working days prior to the date of the scheduled hearing or due to the county modifying the position statement after providing the statement to the claimant, shall be considered postponement with good cause. (See Section 22-053.)

•26 While preparing for the hearing, the county representative shall determine if the presence of the eligibility worker or other county witnesses would be helpful for the resolution of the issue.

•273 At the hearing, the county representative shall assume full responsibility for presentation of the county's case. Such presentation shall include:

•2731 Summarizing the written position statement;

•2732 Presenting the testimony of county witnesses;

•2733 Cross-examining the testimony of the claimant and the claimant's witnesses;

•2734 Responding to any questions from the claimant or hearing officer administrative law judge concerning the case; and

•2735 Having the county case record available at the hearing. The county representative shall have authority at the hearing to make binding agreements and stipulations on behalf of the county welfare department CWD.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference:

Section 10952.5, Welfare and Institutions Code
; 45 CFR 205.10(a)(3); and 7 CFR 273.15(i).

14) Amend Section 22-024 to read:

22-024 PRELIMINARY HEARING PROCEDURE

22-024

.1 The provisions for preliminary hearings set forth herein may shall only be utilized by the county welfare department CWD ~~only~~ upon prior written approval of the Chief Referee Administrative Law Judge.

.11 If such approval has been obtained, a preliminary hearing shall be provided by the county for all state hearing requests concerning actions by that county when the state hearing would be held within that county.

.2 A preliminary hearing is a procedure which provides a claimant who has requested a state hearing an opportunity to present his or her case directly to the county welfare department. The preliminary hearing process ~~does~~ shall not interfere with the claimant's right to a state hearing.

.3 However, ~~denial~~ or dismissal of a claim by preliminary hearing shall terminate aid pending the state hearing. See Section 22-022.5262.

.4 A preliminary hearing ~~is~~ shall neither ~~be~~ required nor available for claimants who have requested a state hearing on an eligibility determination not made by the county welfare department CWD.

.41 For example, a preliminary hearing is not available if the issue is a decision of the Department of Health Services with respect to the scope of Medi-Cal benefits.

.42 The preliminary hearing process ~~does~~ shall not apply to issues involving the Food Stamp Program.

.15 With the approval of the Chief Referee Administrative Law Judge, the county shall provide preliminary hearings in accordance with the following procedures:

.151 A preliminary hearing shall be provided by the county welfare department CWD to the claimant upon notification by the Chief Referee Administrative Law Judge that a request for a state hearing has been filed by the claimant.

.511 A state hearing ~~will~~ shall be scheduled in the normal manner.

- 512 The CWD shall conclude ~~the~~ preliminary hearing process ~~shall~~ be carried out prior to the scheduled date of the state hearing.
- 52 The preliminary hearing shall be conducted by a person, hereinafter referred to as the "county hearing officer", designated by the county welfare director to conduct such hearings and prepare written decisions. The county hearing officer must be an impartial party who shall not have been in any way connected with the previous actions or decisions in the case being appealed.
- 521 Furthermore, ~~the~~ county hearing officer may shall not later serve as the county representative at a subsequent state hearing involving the case.
- 13 The county welfare department shall schedule the preliminary hearing to be held prior to the date scheduled for the claimant's state hearing.
- 53 A preliminary hearing may be continued or postponed for the reasons set forth in Section 22-053, provided such continued or postponed preliminary hearing must be is held prior to the claimant's scheduled state hearing.
- 54 The preliminary hearing shall be held in an office or facility of the county welfare department CWD. If necessary, the preliminary hearing shall be held elsewhere (see Section 22-045.1).
- 55 The county welfare department CWD shall mail or deliver to the claimant the county's written notice of the time and place of the hearing not less than seven ~~(7)~~ days prior to the hearing.
- 56 The preliminary hearing shall be conducted under the same general rules and procedures as those set forth in Sections 22-049 and 22-053.2 for the state hearing.
- 561 Further ~~the~~ provisions of Section 22-050 regarding the introduction, admissibility, and weight of evidence shall ~~also~~ apply to the preliminary hearing process.
- 57 The claimant, the authorized representative, or the county may request that the Chief Referee Administrative Law Judge or a designee issue a subpoena duces tecum requiring attendance and/or the production of documents,

at the preliminary hearing (see Sections 22-051.2 and 22-052).

Authority Cited: Sections 10554 and 10954, Welfare and Institutions Code.

Reference: 45 CFR 205.10(a)(6) and 7 CFR 273.15(c).

- 15) Amend, renumber and entitle Section 22-024.18 to new Section 22-025 to read:

22-025 DISMISSAL OF A PRELIMINARY HEARING

22-025

.18 A preliminary hearing shall be dismissed when:

a. .11 Neither the claimant nor the authorized representative appears at the hearing unless good cause is established under the provisions of Section 22-053.164, ~~or~~.

b. .12 The claimant cannot be located through his/ ~~or~~ her last address of record after notice of the request for state hearing is received by the county, ~~or~~.

c. .13 The request for state hearing is withdrawn by the claimant prior to the issuance of the preliminary hearing decision (see Section 22-054.121).

.2 The county welfare department CWD shall immediately notify the Chief Referee Administrative Law Judge upon dismissing a preliminary hearing on any of the these grounds specified in .1 above, and the county shall immediately ~~put~~ implement its proposed action ~~into effect~~.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 10952, Welfare and Institutions Code; 45 CFR 205.10(a)(8) and (a)(13)(i); and 7 CFR 273.15.

- 16) Amend, renumber and entitle Section 22-024.19 to new Section 22-026 to read:

22-026 PROCEDURE AFTER THE PRELIMINARY HEARING

22-026

- .19 After closing the hearing, the county hearing officer shall prepare a written memorandum decision setting forth:
- a..11 A summary of facts;
- b..12 The decision on each issue to be considered at the state hearing; and
- c..13 Identification of the regulations supporting the written decision. The written memorandum decision may be informal and need not amount to a full opinion nor contain formal findings of fact and conclusions of law.
- .20 The county shall promptly supply a copy of the written decision to the claimant and to the Chief Referee Administrative Law Judge.
- .3 At the time of providing a copy of the decision to the claimant, the county shall determine whether the claimant desires to proceed with the state hearing.
- .31 Notice of such determination, including, if the claimant desires to withdraw his/her request, a statement to that effect signed by the claimant or the authorized representative, shall be forwarded to the Chief Referee Administrative Law Judge with a copy of the written memorandum decision.
- .311 If time limitations prevent the mailing of such notification and decision, the material ~~must~~ shall be presented to the ~~hearing officer~~ administrative law judge at the state hearing for inclusion in the state hearing record.
- ~~.21.~~.4 The county's decision on the issues considered at the hearing shall be ~~put into effect~~ implemented immediately.

Authority Cited: Sections 10554 and 10904, Welfare and Institutions Code.

Reference: Section 10554, Welfare and Institutions Code.

17) Amend and renumber Section 22-025 to 22-027 to read:

22-0257 HEARING NOT HELD IN COUNTY RESPONSIBLE
FOR AID

22-0257

- 1 If the hearing is to be held in a county other than the responsible county, the welfare department of the responsible county may shall elect any choose one of the following procedures:
 - 11 Send a county representative, with the case record and the required position statement, to the hearing + or.
 - 12 The county of responsibility may submit a written position statement summarizing its action.
 - 121 Said summary Such statement shall include all of the information in the county's possession regarding the point or points at issue, both supporting and opposing its action, together with any relevant dates and any arguments the county desires to make.
 - 122 The county shall attach all pertinent documents to the summary position statement.
 - 123 The summary position statement shall be signed under penalty of perjury and contain a waiver of procedural defects of proceeding with the hearing in the absence of the county representative.
 - 124 The summary position statement and pertinent documents shall be mailed at least five days prior to the hearing to the claimant, the authorized representative, and to the place of the hearing with instructions that the statement and attachments be presented to the hearing officer administrative law judge at the time of the hearing.
 - 125 If the county in which the hearing is held does not receive the position statement and attachments from the county of responsibility prior to the hearing, it shall contact the responsible county concerning such position statement and shall attend the hearing on the responsible county's behalf to provide information to the administrative law judge.

.13 Send the case record, or a certified copy thereof, containing all relevant information in the ~~county welfare department's~~ CWD's possession and the required position statement, to the welfare department of the county in which the claimant is living, with the request that the county represent the responsible county at the hearing.

.131 The responsible county shall declare under penalty of perjury that the record submitted is the case record of the claimant.

.132 If certified copies of the record are sent instead of the original, the responsible county shall declare under penalty of perjury that the copies are true copies of the original records.

.133 The request ~~should~~ shall be made in sufficient time to allow the county in which the claimant is living to arrange for representation or to notify the responsible county of its inability to provide such representation. The responsible ~~county~~ welfare department CWD would then, necessarily follow one of the other two procedures.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 10952.5, Welfare and Institutions Code; 45 CFR 205.10(a)13(i).

- 18) Amend and renumber Section 22-027 to new Section 22-028 to read:

22-0278 COMPLIANCE WITH STATE HEARING DECISIONS

22-0278

- .1 Immediately upon receipt of a decision of the Director, the county shall initiate action to comply with such decision.

.11 The county ~~must~~ shall comply with such decision even if a rehearing is requested.

.12 The duty to comply continues if the request for rehearing is granted.

.13 If a rehearing is subsequently rendered, the county shall comply with such rehearing decision to the extent it differs from the original decision.

- .2 If the decision of the Director is wholly or partially in favor of the claimant, the county shall, within ~~thirty~~ 30 days of receipt of the decision, submit a compliance report, on a form approved by the Department, to the Chief Referee Administrative Law Judge.

.21 The compliance report shall set forth the specific manner in which the county has complied and/or is complying with the order in the decision.

.22 The compliance report shall explain the claimant's right to contact the Department and the claimant's right to, and procedures for, requesting a state hearing.

.213 In the Food Stamp Program, decisions which result in an increase in household benefits shall be implemented according to the provisions of Section 63-804.7.

.2131 Decisions which result in a decrease in household benefits shall be reflected in the next scheduled issuance following receipt of the hearing decision.

- .3 The claimant may contact the Department, orally or in writing, if he/~~or~~ she is dissatisfied with the compliance. ~~If the claimant's dissatisfaction concerns compliance issues other than those considered in the original state hearing, he/she may request a new state hearing concerning such issues.~~

.31 There is no right to a state hearing if the request for hearing is based solely on a compliance issue, i.e., an allegation that the county has failed to comply with a previously adopted state hearing decision. In this situation, the substantive issue has already been resolved and the remaining issue is one of enforcement only.

.4 Upon notification that the county has failed to comply with a decision, the Department shall take appropriate action to ensure compliance with such decision.

.5 The claimant shall be permitted to request a new state hearing concerning his/her dissatisfaction with compliance related issues. See Section 22-001(a)(8).

.51 See Section 22-009 for the time limit on requesting a hearing.

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.52 The time limitations for requesting a state hearing shall not be suspended during the period the Department is reviewing the compliance as specified in Section 22-028.6.

.53 The county shall send adequate notice regarding compliance related issues resulting from state hearing decisions.

.36 Upon receipt of the compliance report submitted under Section 22-0278.2, the Department shall make a determination regarding the appropriateness of the compliance.

.61 If it is determined that the compliance is appropriate, a notification shall be sent to the claimant and the county that the compliance has been approved.

.62 If it is determined that the compliance is not appropriate, a notice will be sent to the county with a copy to the claimant, with instructions regarding what steps must be taken to ensure proper compliance with the decision. A copy of such notice shall be sent to the claimant.

Authority Cited: Section 10554, Welfare and Institutions Code.

Reference: Section 10963, Welfare and Institutions Code; 45 CFR 205.10(a)(18); and 7 CFR 273.15(s).

19) Repeal Section 22-040; amend Section 22-043 to read:

22-040 STATE DEPARTMENT RESPONSIBILITY

22-040

22-043 ACKNOWLEDGEMENT OF REQUEST FOR A STATE HEARING

22-043

.1 The Office of the Chief Referee Administrative Law Judge ~~will~~
shall mail to the claimant acknowledgement in writing of all
requests for state hearings.

.11 Such acknowledgement shall also be sent to the county ~~if~~
necessary if not in receipt of the original request.

Authority Cited: Sections 10554 and 10954, Welfare and
Institutions Code.

Reference: Section 10554, Welfare and Institutions Code.

21) Amend Section 22-047 to read:

22-047 GROUP HEARINGS

22-047

- .1 A group of claimants with a common complaint may request that the Chief Referee Administrative Law Judge establish a group hearing.
- .2 The Chief Referee Administrative Law Judge may schedule a group hearing when, in a series of individual requests for a state hearing, the sole issue set forth in the request is one involving state or federal law or changes in state or federal law.
- .3 In all group hearings, each individual claimant shall be permitted to present his/ ~~or~~ her own case, and shall be permitted to be represented by any person he/ ~~or~~ she may desire.
- .4 A separate written decision ~~will~~ shall be issued to each claimant in a group hearing.

Authority Cited: Section 10554, Welfare and Institutions Code.

Reference: 45 CFR 205.10(a)(5)(iv) and 7 CFR 273.15(e).

22) Amend Section 22-049 to read:

22-049 THE HEARING - GENERAL RULES AND PROCEDURES

22-049

- 1 Attendance at the hearing is ordinarily limited to the claimant, authorized representative (as defined in Section 22-001.(a)45), county representative, legal counsel, authorized interpreter, and witnesses relevant to the issue. Other persons may attend the hearing if the claimant agrees to or requests their presence and the hearing officer administrative law judge determines that their presence will not be adverse to the hearing.
- 11 Appearance by the claimant (in person or by the authorized representative) ~~is~~ shall be required at the hearing, unless the hearing is a rehearing or further hearing.
- 12 The ~~hearing officer may~~ administrative law judge shall be permitted to exclude a witness during the testimony of other witnesses.
- 13 ~~however,~~ both the county and the claimant shall have the right to have a representative present throughout the hearing.
- 14 The ~~hearing officer~~ administrative law judge shall have the authority to exclude persons who are disruptive of the hearing.
- 15 In the Food Stamp Program if the claimant is contesting an ~~ESB~~ Employment Service Agency (ESA) determination of failure without good cause to comply with the work registration/job search requirements set forth in Section 63-407.4, ~~ESB~~ the ESA shall participate in the hearing solely through the submission of ~~ESB~~ ESA documents unless the hearing official determines additional ~~ESB~~ ESA involvement is required. Additional ~~ESB~~ ESA participation shall be required if:
 - 151 The hearing official determines that the documents submitted by ~~ESB~~ ESA are not sufficient, or
 - 152 The claimant requests the right to confront an ~~ESB~~ ESA representative, and the hearing official determines fairness requires that the claimant be given an opportunity to confront an ~~ESB~~ ESA representative.

•126 If the hearing official determines that additional ~~EDB~~ ESA participation in the hearing is necessary the hearing official shall:

•1261 Continue the hearing and reschedule it for a time at which the ~~EDB~~ ESA representative is able to attend, or

•1262 Place a conference call to the appropriate ~~EDB~~ ESA representative and require ~~EDB~~ ESA participation in the hearing through this conference call.

•2 The hearing shall be conducted in an impartial manner.

•3 All testimony shall be submitted under oath, affirmation, or penalty of perjury.

•34 The proceedings at the hearing shall be reported by tape recorder or otherwise perpetuated by mechanical, electronic, or other means capable of reproduction or transcription.

•45 The issues at the hearing shall be limited to those issues which are reasonably related to the request for hearing or other issues identified by either the county or claimant which they have jointly agreed, prior to the or at the state hearing, to discuss.

•51 If the rights of any party will be prejudiced by the consideration of a reasonably related issue raised at the hearing, the hearing shall be continued or the record held open subject to the provisions of Section 22-053.3 so that such party may prepare his/her case.

•4152 Notice as an Issue If the claimant contends that he/ or she is not adequately prepared to discuss the issues because he/she did not receive adequate notice required by Section 22-021.1, this issue must shall be resolved by the hearing officer administrative law judge at the hearing.

•41521 If the hearing officer administrative law judge determines that adequate notice was provided, the claimant must shall agree to discuss the substantive issue or issues or the case will be dismissed.

•41522 If the hearing officer administrative law judge determines that adequate notice was not provided, the case will shall be postponed unless the claimant waives the adequate notice requirement

for purposes of proceeding with the hearing, and agrees to discuss the substantive issue or issues at the hearing.

.523 If the notice was not adequate and involved a discontinuance, termination or reduction of aid, other than those referred to in Section 22-022.11 through .14, aid shall be reinstated retroactively and the provisions of Section 22-022.5 shall apply.

.53 In cases in which a jurisdictional issue is raised, either by one of the parties or by the administrative law judge, the parties must be prepared to submit evidence on the substantive issues except as provided in .532 below.

.531 No determination of the timeliness of the hearing request or of any other jurisdictional issue will ordinarily be made at the hearing. The request will be dismissed by a written decision if the administrative law judge determines that jurisdiction does not exist, e.g., request untimely or no subject matter jurisdiction.

.532 If, prior to or at the hearing, both parties agree to discuss only the jurisdictional issue, the parties need not submit evidence on the substantive issues and the administrative law judge shall take evidence only on the jurisdictional issue. Within ten days from the date of the hearing, the administrative law judge shall:

(a) Inform the parties in writing that the hearing will not proceed on the substantive issues and a decision will be prepared solely on the jurisdictional issue, or

(b) Inform the parties that an additional hearing will be held on the substantive issues, and provide the parties a minimum of ten days in which to prepare on the substantive issues unless the time is waived by both parties. In this case, the administrative law judge's proposed decision will address both the jurisdictional and substantive issues.

.56 An interpreter shall be provided by the state if, prior to the hearing, a party requests an interpreter or if at the hearing, the hearing officer administrative law judge determines that an interpreter is necessary.

.61 When the state hearing is to be held with the assistance of an interpreter, the hearing officer administrative law judge shall determine if the interpreter has been certified by the Department of Social Services.

.611 If the interpreter has been certified, the qualifications and competency of the interpreter need not be further examined.

.612 If the interpreter has not been certified, the hearing officer administrative law judge shall:

(a) Examine the qualifications and competency of the interpreter.

(b) Disqualify any interpreter determined by the administrative law judge not to be competent for interpretation purposes.

(c) Assure objective interpretation by, at his/her discretion, disqualifying interpreters who are:

(1) claimant's relatives, friends, or an authorized representative;

(2) county staff who participated in making the decision complained of;

(3) the county appeals representative;

(4) any other individual determined by the administrative law judge to be detrimental to the hearing process or having a bias or the appearance of being biased.

.62 When the state hearing is held with the assistance of an interpreter the administrative law judge shall assure objective interpretation.

.63 A separate oath or affirmation to translate accurately shall be administered to all interpreters.

.7 The rights of the claimant and the county shall include the right to:

.71 ~~the right to e~~Examine parties and witnesses;

.72 ~~the right to e~~Conduct such cross-examination as may be required for a full disclosure of the facts;

.73 ~~the right to i~~Introduce exhibits;

.74 ~~the right to b~~Bring witnesses;

.75 ~~the right to e~~Examine all documents prior to and during the hearing;

.76 ~~the right to e~~Question opposing witnesses and parties on any matter relevant to the issues even though that matter was not covered in the direct examination;

.77 ~~the right to m~~Make oral or written argument;

.78 ~~and the right to r~~Rebut the evidence.

.8 The following shall apply to c~~ommunications~~ e~~concerning~~ the H~~earing~~:

.81 All documents submitted by either the claimant or the county ~~must~~ shall be made available to both parties.

.811 Copies of all such documents ~~must~~ shall be provided to the claimant free of charge.

(a) See Section 22-023.25 regarding position statement requirements.

.82 Merits of a pending state hearing shall not be discussed between the ~~hearing officer~~ administrative law judge and a party outside the presence of the other party.

.9 Whenever it is necessary that another county be joined as a party to the action in order to dispose of all issues, the administrative law judge shall so order and shall, subject to Section 22-053.3, postpone the hearing, hold the record of the hearing open, or continue the hearing as necessary.

.91 A postponement for this reason shall be deemed a postponement for good cause.

Authority Cited: Sections 10553, 10554, 10952.5, and 18904,
Welfare and Institutions Code.

Reference: Sections 10950 and 10955, Welfare and
Institutions Code; 7 CFR 273.16(d) and 45 CFR
205.10(a)(12).

23) Amend Section 22-050 to read:

22-050 EVIDENCE

22-050

.1 ~~The Introduction of Evidence~~ The taking of evidence in a hearing shall be conducted by the hearing officer administrative law judge in a manner best suited to ascertain the facts and to control the conduct of the hearing.

.11 Prior to taking evidence, the hearing officer administrative law judge shall explain to the extent possible identify the issues and shall state the order in which evidence shall be received.

.2 ~~The Admissibility of Evidence~~ Except as provided below, evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs.

.21 The rules of evidence as applicable in judicial proceedings are shall not be applicable in state hearings.

.212 ~~The hearing officer~~ administrative law judge may shall be permitted to exclude evidence which is irrelevant, cumulative or unduly repetitious.

.223 ~~The hearing officer~~ administrative law judge shall exclude evidence which is privileged under the Evidence Code if the privilege is claimed in accordance with law.

.3 ~~Weight of Evidence~~ Although evidence may be admissible under Section 22-050.2, the hearing officer administrative law judge ~~will~~ shall consider the nature of the evidence in assessing its probative value.

~~.4~~ ~~Official Notice~~

.41 "Official Notice" describes the manner in which an ~~hearing officer~~ administrative law judge or the Director will recognize the existence and truth of certain facts which have a bearing on the issue in the case, without requiring the actual production of evidence to prove such facts. Official notice may be taken of either a proposition of law or a proposition of fact.

.421 The hearing officer administrative law judge or Director shall take official notice of those matters which must be judicially noticed by a court under Section 451 of

the Evidence Code. Generally, this section provides that judicial notice must be taken of laws, statutes, regulations, official records, and facts and propositions which are of such universal knowledge that they are not reasonably subject to dispute.

.411 Generally, Section 451 of the Evidence Code provides that judicial notice must be taken of laws, statutes, regulations, official records, and facts and propositions which are of such universal knowledge that they are not reasonably subject to dispute.

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.42 The hearing officer administrative law judge may take official notice of those matters set forth in Section 452 of the Evidence Code. Generally, this section provides that official notice may be taken of facts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy.

.421 Generally, Section 452 of the Evidence Code provides that official notice may be taken of facts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy.

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.43 The hearing officer administrative law judge may take official notice of any generally accepted technical fact relating to the administration of public social service.

.44 With respect to matters under Subsection .43 above and subdivision (f) of Section 451 and Section 452 of the Evidence Code which are of substantial consequence to the determination of the action, each party shall be given reasonable opportunity, subject to Section 22-053.3, before the decision is submitted, to present information relevant to:

.441 The propriety of taking official notice, and

.442 The tenor of the matter to be noticed.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference:

Section 10955, Welfare and Institutions Code;
Evidence Code Sections 451, 452, and 455.

24) Amend Section 22-051 to read:

22-051 THE EXAMINATION OF RECORDS AND ISSUANCE
OF SUBPOENAS

22-051

1 Examination of Records

11 Upon request, the county welfare department CWD shall allow the claimant to examine the case record during regular working hours (see Section 48-013 19-005).

11 If portions of the case record are privileged under the provisions of Section 48-013 19-006, the claimant shall be entitled to inspect such material only if the claimant is the holder of the privilege.

12 The claimant shall have the right prior to and during the hearing, as well as during the hearing, to examine nonprivileged information which the county has used in making its decision to take the action which is being appealed.

13 The county welfare department CWD shall reproduce without charge, or at a charge related to the cost of reproduction, the specific policy materials, including regulations, necessary for an applicant or recipient, or his/ or her authorized representative, to determine whether a state hearing should be requested or to prepare for a state hearing.

31 In the Food Stamp Program such material must shall be made available to the household or its authorized representative at no charge.

2 Issuance of Subpoenas

214 Before the hearing has commenced, the Chief Referee Administrative Law Judge or his/her designee, shall, upon the written or oral request of the claimant or the county welfare department CWD, shall issue a:

41 sSubpoena requiring the presence of any witness whose expected testimony has been shown to be relevant, and not cumulative or unduly repetitious.

242 Before the hearing has commenced, the Chief Referee or a designee, upon the written or oral request of the claimant or the county welfare department, shall issue a sSubpoena duces tecum for the production by a witness of

books, papers, correspondence, memoranda, or other records.

.421 The person who requests the subpoena duces tecum shall submit a statement under penalty of perjury describing the materials desired to be produced and their relevancy.

.422 A witness may comply with the subpoena duces tecum by providing certified copies of the material requested.

.235 After the hearing has commenced, the hearing officer administrative law judge assigned to the case may shall be permitted to issue a subpoena or subpoena duces tecum as necessary.

.36 The party requesting the subpoena or subpoena duces tecum shall have the responsibility of serving having it served.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 10850.2, Welfare and Institutions Code; 45 CFR 205.10(a)(13)(i); and 7 CFR 273.15(m), (o), and (p).

25) Amend Section 22-052 to read:

22-052 WITNESS FEES AND MILEAGE

22-052

- .1 A witness who is subpoenaed at the request of the claimant and who appears at the hearing may shall be permitted to demand payment for witness fees and mileage from the Department of Social Services on a form specified by that Department.
 - .11 The amount of witness fees and mileage paid shall be the same as the amount specified in the Government Code for witness fees and mileage.
- .2 A witness who is subpoenaed at the request of the county and who appears at the hearing may shall be permitted to demand payment for witness fees and mileage from the county on a form specified by the county.
 - .21 The amount of witness fees and mileage paid shall be the same as the amount specified in the Government Code for witness fees and mileage.

Authority Cited: Section 10554, Welfare and Institutions Code.

Reference: Section 10554, Welfare and Institutions Code.

26) Amend Section 22-053 to read:

22-053 POSTPONEMENTS AND CONTINUANCES FOR ADDITIONAL EVIDENCE 22-053

- .1 Postponements shall be granted under limited conditions.
 - .11 A hearing shall be postponed upon the initial request of the claimant prior to the hearing for up to 30 days.
 - .111 Any aid pending, if appropriate and requested by the claimant, shall continue at least until the next scheduled hearing. See Section 63-804.64 in the Food Stamp Manual.
 - .112 Claimants shall be permitted to request additional postponements, however such requests shall be required to meet the good cause criteria set forth in Section 22-053.16.
 - (a) Where good cause exists, the claimant's request for additional postponement shall be granted and aid pending, if appropriate and requested by the claimant, shall continue.
 - (b) Where good cause has not been established, the claimant's request for an additional postponement shall be denied.
 - (c) The Department shall have the authority to request verification from the claimant to support the reason why he/she cannot attend the hearing on the scheduled date.
 - .12 Upon the request of the county, a hearing shall be permitted to be postponed:
 - .121 Prior to the hearing if the claimant agrees;
 - .122 By the hearing officer administrative law judge at the hearing;
 - .123 Any postponement granted under Section 22-053.12 shall be deemed postponed with good cause.
 - .13 The Chief Referee Administrative Law Judge shall have the authority to postpone a hearing prior to the hearing.

- 131 Any postponement granted under Section 22-053.13 shall be deemed postponed with good cause.
- 14 The hearing officer administrative law judge shall have the authority to postpone a hearing, at the hearing, and continue any applicable aid pending, if:
 - 141 The claimant establishes good cause as specified in Section 22-053.156.
 - 142 The county has failed to furnish adequate notice within the meaning of Sections 22-001.(a)(1) and 22-049.52, and the claimant requests the postponement.
- 15 The hearing officer administrative law judge shall have the authority to postpone a hearing, at the hearing, for any other reason at his/her discretion.
 - 151 The hearing officer administrative law judge shall order that aid pending be continued only if the postponement is necessary to insure a full and fair hearing and the postponement did not result from any act or omission on the part of the claimant.
- 16 Good cause shall be established if the claimant or authorized representative establishes that the case should be postponed due to:
 - 161 Death in the family.
 - 162 Personal illness or injury.
 - 163 Sudden and unexpected emergencies including but not limited to:
 - (a) Traffic accidents on the day of the hearing.
 - (b) Inability to arrange transportation on the day of the hearing.
 - (c) Illness or injury of a household or family member who requires immediate care.
 - 164 A conflicting court appearance which cannot be postponed.

.165 The county, when required, does not make a position statement available to the claimant not less than two working days prior to the date of the scheduled hearing, or the county has modified the position statement (as defined in Section 22-023.252) after providing the statement to the claimant, and the claimant has waived decision deadlines contained in Section 22-060.

.2 Continuances for additional evidence shall be granted under limited conditions.

.21 If the hearing officer administrative law judge conducting the hearing determines that evidence not available at the hearing is necessary for the proper determination of the case, the hearing officer administrative law judge shall have the authority to:

.211 Continue the hearing to a later date. In connection therewith, the hearing officer administrative law judge shall have the authority to direct either party to produce additional evidence.

(a) When a continuance is ordered during a hearing, oral notice of the time and place of the continued hearing shall be given to each party present at the hearing.

.212 Close the hearing and hold the record open for a stated period not to exceed 30 days in order to permit the submission of additional documentary evidence.

(a) Such material shall be submitted within a period not to exceed 20 days after the close of the hearing and shall be made available both to the county and to the claimant.

(b) The county and claimant shall each have the right to rebut such submitted material during a stated period not to exceed 10 days after the submission of the additional evidence.

(c) The hearing officer administrative law judge conducting the hearing shall have the authority to order a further hearing if the

nature of the additional information or the rebuttal makes a further hearing necessary.

- .3 When a hearing is postponed, continued, or reopened at the claimant's request, the 60-day or 90-day period provided in Section 22-060 shall be extended. Any such requests for postponement, continuance, or reopening of a hearing may not exceed 30 days each. Every time a claimant requests a postponement, continuance, or reopening, he/she must be given a written notice that explains that the time for rendering a decision will be extended for a period not to exceed 30 days.
- .31 In the Food Stamp Program Every time a claimant requests a postponement or continuance he/she shall be given a written notice that explains that the time limit for rendering a decision shall be extended by the same number of days as the hearing is postponed or continued.
- .32 Sections .3 through .31 above shall not apply if the Chief Referee Administrative Law Judge or the Hearing Officer administrative law judge determines that a decision of the Director can be issued within the 60-day or 90-day period regardless of the postponement, continuance, or reopening as provided in Section 22-060.

Authority Cited: Sections 10553, 10554, and 18904, Welfare and Institutions Code.

Reference: Section 10957, Welfare and Institutions Code; 7 CFR 273.15(c)(4); and 45 CFR 205.10(a)(16).

27) Amend Section 22-054 to read:

22-054 DISMISSALS

22-054

.1 Except in the AFDC Program, the Office of the Chief Referee Administrative Law Judge shall deny or dismiss a request for a hearing where the sole issue is one of state or federal law requiring automatic grant adjustments for classes of recipients.

.11 and aid shall not be continued in the amount that claimant would have been paid if the adjustment had not been made.

.2 In cases other than those specified in .1 above, and .4 below, ~~otherwise~~, a request for hearing shall not be dismissed prior to the hearing unless it has been withdrawn or abandoned.

.21 Withdrawal

.211 The claimant may withdraw his/ or her hearing request any time before a decision of the Director is signed.

(a) Such withdrawal ~~must~~ shall be submitted in writing. If the claimant has verbally withdrawn the hearing request prior to the hearing date, it will be treated as a request for postponement pending receipt of the written withdrawal.

(b) If the Office of the Chief Administrative Law Judge fails to receive the written withdrawal within 30 days, the matter shall be rescheduled.

(c) A withdrawal may be unconditional or conditional.

(1) See Section 22-022.61 regarding the effect of withdrawal on aid pending.

HANDBOOK

~~+++~~ (2) If the withdrawal is unconditional, the hearing request shall be immediately dismissed.

(A) The dismissal shall be without prejudice in that the claimant

shall be permitted to file a new hearing request raising the identical issue provided that the request is filed timely pursuant to Section 22-009.

•112(3) If the withdrawal is conditional:

(aA) The withdrawal ~~must~~ shall be accompanied by an agreement signed by the claimant and by the county.

(b) If the agreement cannot be effective without the concurrence of the Department, the county shall submit the facts by letter to the Department. If the state department concurs, the county is authorized to make the adjustments. (In degree of blindness appeals this process is reversed, i.e., the department notifies the county welfare department of the result of the eye examination and recommends adjustment if the county agrees.)

(cB) Any agreement under this provision ~~must~~ shall provide that the actions of both parties will be completed within thirty 30 days. See Section 22-021.14 regarding adequate notice with conditional withdrawal.

(dC) After the county issues notice of its redetermination, if the claimant does not reinstate the hearing request within sixty days of date of the conditional withdrawal, the time limits set forth in Section 22-009 the hearing request shall be dismissed.

•122 Abandonment

•221 If the claimant, without good cause therefore, fails to appear, by him/her self or by authorized representative, at the hearing, a notice will be mailed to the claimant stating that scheduled for such claimant, the case request will shall be considered abandoned, unless the claimant requests reinstatement within ten days.

•222 If within ten days from the date of notice the scheduled hearing, the claimant requests that the hearing request be reinstated and establishes good cause for failing to appear at the hearing as specified in Section 22-053.16 the hearing shall be rescheduled.

(a) If the hearing is rescheduled, claimant does not establish good cause for failure to appear as specified in Section 22-053.14, any applicable aid pending the hearing shall cease (see Section 22-022.526), be reinstated as specified in Section 22-022.611.

(b) If the hearing is not rescheduled, the claimant shall be notified in writing as to the specific reasons for the decision and right to request reconsideration by the Chief Administrative Law Judge of such determination.

(c) The Department shall have authority to request a written declaration or other verification from the claimant to support the reason for the nonappearance.

•23 A request for hearing or portion thereof shall be dismissed by a written hearing decision when:

•231 The ~~sole~~ issue is not within the jurisdiction of a state hearing as defined in Section 22-003.1 and Welfare and Institutions Code Section 10950;

•232 The request for hearing is filed beyond the time limit set forth in Section 22-009;

•233 The ~~hearing officer~~ administrative law judge determines at the hearing that the claimant or authorized representative (as defined in Section 22-001.4) is unwilling to present his/ or her case.

- .234 The hearing officer administrative law judge determines that the identical issue has been the subject of a previous fair state hearing decision involving the claimant.
- .35 The person who requests the hearing does not have standing to request the hearing. See Section 22-001(a)(7).
- .36 The administrative law judge fails to receive a written authorization following the hearing as specified in Section 22-010.2.
- .37 The request for hearing raises a compliance issue, i.e., an allegation that the county has failed to comply with a previously adopted state hearing decision. See Section 22-028.
- .4 The Chief Administrative Law Judge shall have authority to dismiss, without a hearing and written decision, a hearing request which is subject to dismissal under Section 22-054.31, .35, or .37.
- .41 Prior to such dismissal, a letter setting out the reasons for the dismissal shall be sent to the claimant indicating that a dismissal shall occur within 15 days unless the claimant sets forth further facts and/or argument, orally or in writing, which would indicate that the matter should not be dismissed.
- .42 If the claimant presents information that may indicate that the matter should not be dismissed, a hearing shall be scheduled.
- .43 If the claimant presents information but it fails to establish that the matter should be heard, the request shall be dismissed and a hearing will not be scheduled. The claimant shall be notified of the reasons for such action.

Authority Cited: Sections 10553, 10554, and 18904, Welfare and Institutions Code.

Reference: Section 10950, Welfare and Institutions Code; Turner v. McMahon Consent Decree, U.S.D.C., San Francisco, Civil Action No. C 81-4457 TEH; 7

CFR 273.15(j), (j)(2), and (j)(3); and 45 CFR
205.10(a)(5).

29) Amend Section 22-056 to read:

22-056 CLAIMANT LIVING OUTSIDE OF CALIFORNIA/
INSTITUTIONALIZED CLAIMANTS

22-056

- 1 When a request for a state hearing is received from a person presently living outside of the state, or from an inmate or patient of a California penal institution or other institution which prohibits the conduct of oral hearings, it shall be acknowledged and reported in the same manner as other requests for a state hearing.
 - 11 Unless the claimant voluntarily offers to return to California for the hearing or authorizes a representative in California, the county welfare department CWD shall be advised that the hearing will be processed by questionnaire.
- 2 A questionnaire consists of a written series of questions to be answered by the claimant in writing and sworn to before a notary under penalty of perjury. The completed questionnaire properly attested to and submitted shall constitute the claimant's appearance and testimony at the hearing. The questions to be included in the questionnaire are to be prepared jointly by the county welfare department and the hearing officer to whom the case is assigned.
 - 21 It shall be the responsibility of the hearing officer administrative law judge to initiate discussion with the county welfare department CWD regarding preparation of the questions to be included.
 - 22 The county welfare department CWD shall submit the questions it wants answered.
- 3 Upon receipt of the notification from the Department that the hearing will be conducted by questionnaire, the claimant shall have a minimum of ten days in which to return a waiver of right to an oral hearing.
 - 31 If the claimant fails to return the waiver within this ten-day period, the request shall be considered abandoned.
 - 32 If the waiver of the right to an oral hearing is returned within the ten-day period, the date of the state hearing shall be deemed to be the date the waiver was mailed by the claimant.

- .33 The claimant shall be notified that the 60-day and 90-day time period specified in Section 22-060 shall be extended for a period of 60 days in order to complete the hearing process by correspondence.
- .34 The claimant shall have a maximum of twenty-two 22 days from the date of the mailing of the questionnaire in which to respond to questions.
- .41 If there is no response within that period, the case request ~~will~~ shall be considered abandoned. After receipt of a completed questionnaire, an aid paid pending decision ~~will~~ shall be made, if applicable, under Section 22-022.5.
- .45 Copies of the completed questionnaire and aid paid pending decision ~~will~~ shall be sent to the county.
- .51 The county has seven days to rebut the completed questionnaire.
- .52 The county may also request reconsideration of the aid paid pending decision.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 10955, Welfare and Institutions Code.

30) Amend Section 22-059 to read:

22-059 COMMUNICATIONS AFTER HEARING

22-059

.1 Communications to the Department concerning a case subsequent to the hearing shall be excluded from the record and shall be disregarded prior to the adoption and release of the decision of the Director except that: (a)

.11 ~~Oral~~ and written communications after the hearing concerning the status of the decision, or the date of delivery of additional evidence to be submitted under the provisions of Section 22-053.212, or protesting an ~~hearing officer's~~ administrative law judge's determination under Section 22-022.52363 with respect to aid pending a hearing or a disqualification request under the provisions of Section 22-055, are not improper; and (b)

.12 ~~An administrative law judge hearing officer may~~ shall have authority on his/ or her own motion or at the request of either party to reopen the record for receipt of additional information, if all parties are notified of the reason for the reopening and the submission of such evidence conforms to the requirements of Section 22-053.212, and Section 22-053.3.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 7 CFR 273.15(q) and 45 CFR 205.10(a)(14).

31) Amend Section 22-060 to read:

22-060 DISPOSITION OF STATE HEARINGS

22-060

- .1 All state hearings shall be decided or dismissed within 90 days from the date of the request for state hearing except in those cases where the claimant waives such requirement or the claimant withdraws or abandons the request for hearing.
 - .11 If the claimant conditionally withdraws the hearing request under the provisions of Section 22-054.~~121~~, the 90-day period shall extend from the date on which the request for hearing is reinstated.
 - .12 In the Food Stamp Program all state hearings shall be decided or dismissed and the claimant and ~~county welfare department~~ CWD notified of the decision within 60 days from the date of the request for a state hearing. The same exceptions apply as stated in .1 above.
 - .121 If the issues at a state hearing concern both public assistance and food stamp benefits, the hearing shall be conducted according to public assistance procedures and the 90-day rather than the 60-day period shall apply.

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: 45 CFR 205.10(a)(16).

32) Amend Section 22-061 to read:

22-061 SUBMISSION OF PROPOSED DECISION/ADOPTION
OF FINAL DECISION

22-061

- 1 After the hearing has been closed, the hearing officer administrative law judge shall submit a proposed decision for review by the Chief Referee Administrative Law Judge and submission to the Director, or shall adopt a final decision pursuant to the authority delegated to the administrative law judge by the Director.
- 2 If the hearing officer administrative law judge who heard the case is unavailable to prepare the proposed decision, the Chief Referee will Administrative Law Judge shall contact the claimant and notify the claimant him/her that the case is being assigned to another hearing officer administrative law judge for preparation of the decision on the record.
- 21 The notice shall inform the claimant that he/she may elect to have a new oral hearing held in the matter, provided that he/she agrees to waive the 90-day period for 60-day period for Food Stamp appeals set forth in Section 22-060.
- 22 An administrative law judge hearing officer is shall be considered unavailable within the meaning of this section if he/ or she is:
 - (a) 221 Is incapacitated; or
 - (b) 222 Has ceased employment as an hearing officer administrative law judge;
 - 223 Is disqualified under Section 22-055.
- 3 The Department shall be deemed to have received the proposed decision on the date such decision has been certified for the review of the Chief Referee Administrative Law Judge.
- 4 Decisions rendered by administrative law judges pursuant to the authority delegated to them by the Director shall be considered final upon signing and dating by the administrative law judge.

Authority: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 10958, Welfare and Institutions Code; and
45 CFR 205.10(a)(9).

33) Amend Section 22-062 to read:

22-062 ACTION BY THE DIRECTOR

22-062

- .1 The Director after receiving the proposed decision ~~may~~ shall:
 - .11 Adopt the decision in its entirety; or
 - .12 Decide the matter on the record, including the transcript, with or without taking additional evidence; an alternate decision; or
 - .13 Order ~~another~~ a further hearing to be conducted.
- .2 If the Director fails to act in the manner specified in Section 22-062 .1 above within ~~thirty~~ 30 days after the Department's receipt of the proposed decision, by the Department the proposed decision ~~will~~ shall be deemed adopted.
- .3 The decision of the Director shall be in writing.
 - .31 ~~It~~ The decision shall include:
 - .311 ~~a~~ A statement of the facts and of;
 - .312 ~~t~~ The statutes and regulations involved and of ;
 - .313 ~~t~~ The reasoning which supports the decision.
- .4 The decision shall determine only those circumstances and issues ~~involved in the period up to the date of the close of the state hearing record and is not applicable to circumstances and issues which arise subsequent to that date.~~ existing at the time of the county action in dispute or otherwise agreed to by the parties.
- .5 In cases involving allegations of discrimination and preparation of a report in accordance with Section 21-203.2, the case shall be remanded to the county for the preparation of a report in accordance with Section 21-203.12.

Authority: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 10959, Welfare and Institutions Code.

34) Amend Section 22-063 to read:

22-063 NOTICE OF DECISION

22-063

- 1 After the hearing officer's administrative law judge's proposed or final decision is adopted or an alternate decision is rendered by the Director, a copy shall be mailed to the claimant and the county.
 - 11 The notice of decision shall ~~also~~ contain:
 - 111 ~~a~~A statement concerning the right to judicial review.
 - 112 ~~a~~Applicable rehearing rights ~~and shall~~
 - 113 A statement advising ~~advise~~ the claimant that, if the court decides the case in his/ ~~or~~ her favor, he/ ~~or~~ she shall be entitled to reasonable attorney's fees and the cost of the suit.
- 2 If the Director renders an alternate decision or orders ~~another a further~~ hearing, a copy of the proposed decision(s) shall be mailed to the claimant and the county with the final decision.
- 3 The Director retains jurisdiction to rectify clerical errors contained in the decision after the decision has been issued.

Authority: Sections 10554 and 10954, Welfare and Institutions Code.

Reference: Section 10554, Welfare and Institutions Code.

35) Amend Section 22-064 to read:

22-064 AVAILABILITY OF STATE HEARING RECORDS

22-064

The verbatim record of the testimony and exhibits, or an official report containing the substance of what transpired at the hearing, together with all papers and the request filed in the proceedings, and the ~~hearing officer's~~ administrative law judge's proposed decision shall constitute the exclusive record for decision. Such materials shall be available to the claimant and the county during normal working hours at the Office of the Chief Referee Administrative Law Judge or at a mutually agreed-upon location for three years after the date of the decision of the Director.

Authority: Section 10554, Welfare and Institutions Code.

Reference: Section 10554, Welfare and Institutions Code.

36) Amend Section 22-065 to read:

22-065 REHEARING

22-065

.1 The claimant or the county may file a request for a rehearing.

.11 Such request shall be in writing and shall be filed with the Office of the Chief Referee Administrative Law Judge not more than ~~thirty~~ 30 days after receipt of the hearing decision.

.111 ~~{~~For rehearing requests involving a decision issued by the Department of Health Services, the request shall be mailed to the Department of Health Social Services.~~}~~

.112 The request shall not be required to be in any particular form.

.112 The request need not be in any particular form. If the request is to permit presentation of additional evidence, the request for rehearing shall also:

.1121 Describe the additional evidence;

.1122 State why it was not previously introduced; and

.1123 Explain its materiality.

.123 The request shall also state the date the decision was received. ~~However,~~

.131 ~~i~~In the absence of such statement, the date of receipt shall be two ~~{2}~~ days after the date of the postmark on the envelope containing the decision.

.134 The postmark on the envelope containing the rehearing request ~~is~~ shall be the filing date.

.141 If the postmark on the envelope is unreadable, the filing date shall be the date the request for rehearing is signed.

.142 If the postmark is unreadable and the request for rehearing is undated, the filing date shall be three days prior to the date the rehearing request is stamped "received" by the Department of Social Services ~~{DSS}~~.

- .2 Upon receipt of a timely rehearing request, the Director shall serve ~~{mail}~~ a copy of the request on the other party to the hearing.
 - .21 This party ~~may~~ shall be permitted to file a statement supporting or opposing the rehearing request.
 - .211 Such statement shall be in writing and shall be filed with the Director not later than five days after service.
 - (a) ~~{~~The filing date shall be determined in accordance with the provisions of .134 ~~above.~~}
- .3 The Director shall grant or deny the request no earlier than five nor later than ~~fifteen~~ 15 working days after it is ~~filed~~ with received by the Chief Referee Administrative Law Judge.
 - .31 If the Director does not act within this period, the request for rehearing shall be deemed denied.
- .4 If a request for rehearing is granted, the Director ~~may~~ shall either:
 - .41 Order reconsideration of the decision on the basis of the evidence in the record and any additional evidence which may be submitted by the claimant or the county.
 - .411 Any evidence obtained shall be submitted to the opposing party for rebuttal;
 - .42 Order a new hearing on one or more of the issues presented at the original state hearing.
- .5 Where the Director's order is pursuant to the provisions of .41 or .42 above, the claimant and the county ~~will~~ shall be informed that either may request that the rehearing be conducted in the same manner as the original hearing.
 - .51 Any such requests received prior to the date of reconsideration that is specified in the Director's order shall be honored.
- .6 A decision of the Director issued upon a rehearing shall not be subject to further state hearing.
- .7 When a request for rehearing is denied, the Notice of Denial shall contain a statement concerning a right to judicial review and shall advise the claimant that, if the court

decides the case in his/~~or~~her favor, he/ ~~or~~ she ~~will~~ shall be entitled to reasonable attorney's fees and the cost of the suit.

- .8 A rehearing request shall be permitted to be withdrawn anytime before the Department has acted upon the request.
- .9 After a rehearing request has been granted, it shall be permitted to be withdrawn by the requesting party subject to the approval of the Chief Administrative Law Judge, his/her designee or the administrative law judge.

Authority: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10554 and 10960, Welfare and Institutions Code.

37) Amend Chapter 22-100, Section 22-101 to read:

DIVISION 22 REQUEST FOR REVIEW AND STATE HEARING

CHAPTER 22-100 REQUEST FOR REVIEW

22-101 DEFINITIONS

22-101

(a) The following definitions shall apply wherever the terms are used in describing and reporting review activities in this chapter.

~~*1~~ Inquiries*

~~*11~~ Are essentially informational in character.

~~*12~~ Require no service by the county department or the State Department of Social Services other than supplying the information.

~~*13~~ Are not specific complaints or requests for a state hearing.

~~*2~~(1) Complaints—A communication received from an applicant for or recipient of public social services or food stamps; a person acting for the applicant or recipient such as a legal guardian, relative, friend, or other spokesperson who has knowledge of his/her need; relatives found liable for contributions; another person, including an anonymous person; which includes but is not limited to:

(A) A request or implication of a request for some review or service by the CWD or the Department.

(B) An expression of misunderstanding or dissatisfaction with some specific action, lack of action, or series of actions by a county or counties affecting an application for or receipt of public social services or food stamps.

(C) A request or implication of a request for review and negotiation with the county regarding possible adjustment rather than a state hearing.

(D) A report of fraud or misuse of funds by recipients or misuse of food stamps.

~~*21~~ Are requests received by letter, telephone or in person for some review or service by the county department or

- the State Department of Social Services that meet the following requirements:
- *211 They are made by an applicant for or recipient of public social services or food stamps or by a person acting for the applicant or recipient such as a legal guardian, relative, friend or other spokesperson who has knowledge of his or her need to request a review.
 - *212 They express misunderstanding or dissatisfaction with some specified action, lack of action or series of actions by a county or counties affecting his or her application for or receipt of public social services or food stamps. Such requests include but are not limited to requests for review of such areas as food stamp processing standards and provisions of services.
 - *213 They request or imply review and negotiation with the county regarding possible adjustment rather than a state hearing.
 - *22 Complaints may also include:
 - *221 Reports by others of fraud or misuse of funds by recipients or misuse of food stamps.
 - *222 Anonymous communications relating to applicants or recipients of categorical assistance or food stamps on which action is taken.
 - *223 Communications from relatives found liable for contributions.
- *3(2) State Hearing--It is an administrative hearing procedure established pursuant to Sections 10950 through 10965 of the Welfare and Institutions Code, 45see Operations Manual Section 22-0014.
- Authority: Sections 10554 and 18904, Welfare and Institutions Code.
- Reference: Section 10554, Welfare and Institutions Code.

38) Amend Section 22-105 to read:

22-105 REQUEST FOR REVIEW -- GENERAL

22-105

.1 Any expression of misunderstanding or dissatisfaction, oral or written, shall be accepted as a request for review.

.11 At such time the right to a state hearing and aid paid pending shall be explained.

Authority: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: Section 10554, Welfare and Institutions Code.

39) Amend Section 22-107 to read:

22-107 COUNTY DEPARTMENT OR STATE DEPARTMENT OF
SOCIAL SERVICES REVIEW

22-107

.1 A dissatisfied person may request the county CWD or the State Department of Social Services to review county action, or failure to act in any matter relating to his/ or her grant, food stamps, or treatment.

.11 The individual shall be encouraged to exhaust county department CWD adjustment procedures before requesting the State Department of Social Services to review his/ or her problem.

Authority: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: Sections 10554 and 10950, Welfare and Institutions Code.

40) Amend Section 22-109 to read:

22-109 COUNTY DEPARTMENT CWD RESPONSIBILITY

22-109

•1 Availability of Review

•11 In all individual relationships the county CWD shall strive for prompt, simple, and precise explanations of its actions to assure the maximum understanding on the part of the individuals.

•111 If this is not achieved between the individual and the social worker, the county CWD shall be responsible for providing, administratively, a process through which the individual will receive an appropriate explanation or a resolution of his/ or her problem.

•2 Designation of Staff to Conduct Review

•21 The county department CWD, in accordance with its size and/or administrative structure, shall specifically designate staff to be responsible for the activities connected with requests for review.

•211 Such staff shall:

(a) be in a position to reassess promptly the client's situation in the light of applicable regulations with freedom to consider alternatives other than confirmation of the action under review.

•22(b) The county department's designated staff shall have authority to take immediate action and effect any adjustment as may be appropriate.

•212 In the review special attention should be given to The staff review shall discover and correct any of the following:

•211(a) Failures of communication between complainant and worker.

•222(b) Erroneous application of public social service or food stamp regulations.

•223(c) Failure to provide aid and services promptly and humanely, without

discrimination, and in a manner as to encourage self-respect and self-reliance.

•3 Dissatisfaction with Review

- 31 As part of the review process, the client shall again be informed by county staff of his/ ~~or~~ her right to a state hearing.

•4 Complaint Records and Analysis

- 41 In the Food Stamp Program, counties shall maintain records of complaints received and their dispositions (see Section 22-101-2)(a)(1)), and shall review records at least annually to assess whether patterns of problems may exist in local offices or throughout the county.

- 422 The results of this review shall be reported annually to ~~SSS~~ the Department on the report form provided by ~~SSS~~ the Department.

Authority: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: Section 10554, Welfare and Institutions Code; and 7 CFR 275.15(c)(1).

41) Amend Section 22-113 to read:

22-113 STATE DEPARTMENT OF SOCIAL SERVICES RESPONSIBILITY 22-113

- 1 The State Department of Social Services ~~is~~ shall be responsible for providing a process whereby the individual who has not achieved an understanding with the county may have his/ ~~or~~ her situation reassessed and reviewed promptly.
- 2 The State Department's ~~of Social Services~~ complaints staff shall:
 - 21 ~~Receive~~ Receive the request for review*;*
 - 22 ~~Contact~~ Contact the designated staff in the appropriate county*;*
 - 23 ~~Inform~~ Inform the county of the client's problem*;* and
 - 24 ~~Request~~ Request that the problem be promptly reassessed.
- 3 The State Department ~~of Social Services~~ staff may inform the county of the intent or meaning of applicable regulations.
- 4 As part of the review process the client shall be informed of his/ ~~or~~ her right to a state hearing.

Authority: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: Section 10554, Welfare and Institutions Code.

OCT 21 1987

AP 5:00'clock

MARCH FONG EU, Secretary of State

By *[Signature]*
Law Secretary of State

OFFICE OF ADMINISTRATIVE CERTIFICATION OF APPROVAL

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Department of Social Services

DAL File No: 87-0921-02

[Signature]
LINDA HURDLE STOCKDALE BREWER
DIRECTOR

10/20/87
Date

FACE SHEET

87-1015-03
(See Instructions on Reverse)

RDB# 1186-50

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW
CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

FILED
In the office of the Secretary of State
of the State of California

NOV 13 1987
At 4:08 o'clock P.M.
MARCH PONG EU, Secretary of State
By David Perez
Deputy Secretary of State

ENDORSED
APPROVED FOR FILING
NOV 13 1987

Department of Social Services

(AGENCY)

John S. McHugh
AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: 10/6/87

For use of Office of Adm Law

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions) TITLE TELEPHONE

Rosalie P. Clark, Chief Regulations Development Bureau

445-1422

2. Type of filing, (check one) ☒ 30-day Review ☐ Emergency ☐ Certificate of Compliance (Complete Part 4 below)
- ☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
- ☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction

3. a. Specify California Administrative Code title and sections as follows:

SECTIONS ADOPTED:
Title MPP Manual of Policies and Procedures, Sections 70-202.5 and .6

SECTIONS AMENDED:

SECTIONS REPEALED:

- b. The following sections listed in 3a contain modifications to the text originally made available to the public:

Sections 70-202.511, .512, .521, .53, .531, .541, .56, .62, .631, and .64

4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)

- ☐ prior to the emergency adoption
- ☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.

5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?

☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL:

6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?

☒ No ☐ Yes, if yes, give date statement was submitted to OAL

7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)

- ☐ Fair Political Practices Commission (Include FPPC approval stamp) ☐ Building Standards Commission (Attach approval)
- ☐ State Fire Marshall (Attach approval) ☐ Department of Finance (Attach properly signed Std. 399)
- ☐ Other _____

(SPECIFY AGENCY)

8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER <u>April 3, 1987</u>	b. DATE OF FINAL AGENCY ACTION <u>October 6, 1987</u>	c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c)) <u>August 7, 1987 through August 24, 1987</u>
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9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)

- a. ☒ Effective 30th day after filing with the Secretary of State.
- b. ☐ Effective upon filing with the Secretary of State.
- c. ☐ Effective on _____ as required or allowed by the following statute(s): _____
- d. ☐ Effective on _____ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
- e. ☐ Effective on _____ (Designate effective date *later than* the normal effective date for the type of order filed.)

INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
- Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
 - Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
 - Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
 - An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
 - If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
 - If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
 - If an effective date later than specified above is requested, provide the date.

FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400 attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

DELEGATED AUTHORITY ORDER

I hereby authorize and designate Rosalie P. Clark, Chief, Regulations Development Bureau as the agency contact person who has authority to make decisions and answer questions regarding this regulation order.

A handwritten signature in cursive script, appearing to read "Linda S. McMahon".

LINDA S. McMAHON
Director

UPDATED INFORMATIVE DIGEST

Assembly Bill (AB) 4295, Chapter 445, of the Statutes of 1986 was approved by the Governor and filed with the Secretary of State on July 22, 1986. AB 4295 required the State Department of Social Services to establish a statewide photo-listing service to serve all licensed adoption agencies. The bill further required: 1) that the photo-listing service maintain a book which contains a photograph and description of each child who has been legally freed and whose case plan is adoption, with specified exceptions; 2) that all licensed adoption agencies send to the photo-listing service, within 15 working days of the time that a child becomes free for adoption, a recent photograph and description of the child, and to provide updated information as prescribed; and 3) that the Department promulgate regulations concerning the operation and monitoring of the photo-listing service. The photo-listing service required by AB 4295 did not apply to independent or intercountry adoptions.

Although existing law and regulations provide procedures for the adoption of children, heretofore, there were no regulations pertaining to adoption photo-listing services. These proposed regulations would establish specific regulatory requirements and procedures for the Department's Adoptions Photo-Listing Service by: 1) adopting Section 70-202.5 to require adoption agencies to take specified actions to register with the Department's Photo-Listing Service each child who has been freed for adoption and whose case plan goal is adoption; and 2) adopting Section 70-202.6 to require adoption agencies to submit specified information and materials to the Department's Photo-Listing Service in order to update each child's photo-listing status on an annual basis or whenever significant changes occur, whichever is sooner. The proposed regulations would define "significant changes." Finally, the proposed regulations contain statutory requirements which specify time frames within which the Department shall list children in the photo-listing book and review the photo-listing status of all children who have been freed for adoption and whose case plan is adoption, including those children who are registered with the photo-listing service and those whose registration has been deferred.

FINAL STATEMENT OF REASONS

a) Description of the Public Problem, Administrative Requirement, or Other Condition or Circumstance the Regulations Are Intended to Address

The general purpose of these regulations and handbook material is to implement AB 4295, Chapter 445, Statutes of 1986 which mandates the Department to establish and maintain a statewide photo-listing service consisting of photographs and descriptions of all legally freed children whose case plan goal is adoption. Also, under this legislation, all licensed adoption agencies are required to register with the Department's photo-listing service all legally freed children whose case plan goal is adoption within specified time frames and to provide updated information as prescribed.

The statute required that the Department promulgate regulations governing the photo-listing service. Although the statute was specific in certain requirements, the Department has repeated these requirements for the sake of clarity and consistency. For instance, the regulations clarify the statutory requirement for agencies, to submit a description of the child by establishing specific standards for the narrative description. To maintain consistency among adoption agencies in their submission of narrative descriptions of children, it was necessary for the Department to require all agencies to include certain basic information in the descriptions. Therefore, for clarity and consistency, in certain instances, duplication of the statutory language was justified.

b) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations are Necessary

Sections 70-202.5 through .511(c)

Specific Purpose:

The specific purpose of these sections is to require the agency to register all children freed for adoption and to provide the agency with specific, uniform procedures for registration.

Factual Basis:

Section 224b of the Civil Code mandates all licensed adoption agencies to submit to the photo-listing service, a recent photograph of each child who is legally freed for adoption.

Final Modification:

Subsection 70-202.511 was changed to delete the requirement for the agency to submit black and white glossy photographs. The effect of this change is to require the agency to submit two recent photographs, which may be black and white glossies or color. A Handbook item (a) was added to inform the agency of the Department's preference for black and white photographs since they reproduce more clearly than color photographs. The originally proposed sections (a), (b) and (c) were relettered to accommodate the new Handbook item (a).

Section 70-202.512(a) and (b)(1) through (4)

Specific Purpose:

The specific purpose of this section is to require the agencies, as a part of the registration process, to use a prescribed format in developing a typewritten description of each child being registered. The purpose of prescribing a specific form for the submission of the description is to maintain statewide consistency in the registration process.

Factual Basis:

Section 224b of the Civil Code mandates all licensed adoption agencies to submit a description of each child, who has a case plan goal of adoption, to the photo-listing service. By requiring the agencies to conform to a prescribed format in developing the description, registrations will be consistent statewide. Based on information in the description, prospective adoptive families can determine immediately if the child is a child that they would like to adopt. By requiring the agencies to type the description on a prescribed form, the information becomes a camera-ready copy and the processing time for converting the information into printed inserts for the photo-listing album is drastically reduced. Therefore, once the Department receives the registrations and processes them into album inserts, the inserts are immediately available to be distributed to adoption workers.

Final Modification:

Section 70-202.512(b)

Subsection 70-202.512(b) was modified by changing "should" to the regulatory "shall." Also, "is" was changed to "are" in the sentence regarding "four concise paragraphs."

Sections 70-202.52 and .521

Specific Purpose:

See specific purpose for Sections 70-202.5 through .511(c) and 70-202.512. Also, these sections establish the time frame for submission of information.

Factual Basis:

Section 224b of the Civil Code mandates licensed adoption agencies to submit a recent photograph and description of each child to the photo-listing service within 15 working days of the time the child is legally freed for adoption.

Final Modification:

Section 70-202.521

Subsection 70-202.521 was changed by deleting the word "with" and inserting "...on the first working day following..." to conform with Civil Code Section 10.

Section 70-202.522

Specific Purpose

The specific purpose of this section is to inform the agencies that the child shall not be photo-listed during the appeal process.

Factual Basis:

Section 901 et seq. of the Code of Civil Procedure provides for the review of a judgment or order.

Sections 70-202.53 and .531(a)

Specific Purpose:

The specific purpose of these sections is to inform the agency that a child may be photo-listed prior to being legally freed and to identify the criteria and specify the time frame to photo-list such a child.

Factual Basis:

Section 224b of the Civil Code allows the registration of a child prior to being legally freed if adoption is the case plan goal.

Final Modification:

Sections 70-202.53 and .531

Subsection 70-202.53 was changed from "...prior to the child becoming legally freed..." to the possessive "...prior to the child's becoming legally freed...."

Subsection 70-202.531 was modified by changing "must" to the regulatory "shall" and "either" was deleted since the regulation allows for more than two options.

Sections 70-202.54 and .541:

Specific Purpose:

The specific purpose of these sections is to inform the agency that a child shall be deferred from the photo-listing service if that child's foster parent(s) or other identified individuals have applied to adopt the child. An AD 558 must be received within the 60-day time period in order for the deferral to be maintained.

Factual Basis:

Section 224b of the Civil Code requires deferral of a child from the photo-listing service if his/her foster parent(s) or other identified individuals have applied to adopt him/her. In order for the deferral to be maintained, the Department must receive an AD 558 within 60 working days.

Final Modification:

Section 70-202.541

Subsection 70-202.541 was modified by inserting the words "on which" after "date" to make the language consistent with Subsection 70-202.521.

Sections 70-202.55 and .551:

Specific Purpose:

The specific purpose of these sections is to inform the agency that unless a child 12 years of age, or older, consents to be adopted, he/she shall be deferred from the

photo-listing service. Also, a time frame to register a child 12 years of age, or older, once he/she consents to be adopted, is established.

Factual Basis:

Section 224b of the Civil Code defers the registration of a child from the photo-listing service if that child is 12 years of age, or older, and does not consent to be adopted. Also, Section 225 of the Civil Code states that "the consent of a child, if over the age of 12 years, is necessary to its adoption." This section also establishes a time frame for agencies to register children in this category.

Section 70-202.56

Specific Purpose:

The specific purpose of this section is to inform the agency that within 30 working days of receipt of registrations of children, the Department will reflect the registrations in the photo-listing book.

Factual Basis:

Section 224b of the Civil Code mandates the Department to reflect registrations of children, by licensed adoption agencies, in the photo-listing book within 30 working days of receipt of registrations.

Final Modification:

Section 70-202.56

Subsection 70-202.56 was modified by changing "will" to the regulatory "shall" and as a consequence this subsection becomes regulation rather than Handbook. Also, the cross reference to Subsection 70-202.511 "(a) through (c)" was changed to "(b) through (d)" to reflect the relettering of Subsection 70-202.511.

Sections 70-202.6 and .61(a) through (d)

Specific Purpose:

The specific purpose of these sections is to require the agency to notify the photo-listing service of any adoptive placements regarding registrations submitted to the photo-listing service or any significant change in the photo-listing status of children registered. Also, these

sections define "significant changes," how the agency is to notify the photo-listing service, and sets forth an established time frame for reporting changes.

Factual Basis:

Section 224b of the Civil Code mandates licensed adoption agencies to notify the photo-listing service within two working days, by telephone, of any adoptive placements or any significant changes in the photo-listing status of a child registered with the photo-listing service.

Section 70-202.62

Specific Purpose:

The specific purpose of this section is to establish a specific time frame for the Department to reflect in the photo-listing service any change in the photo-listing status of a child as identified in Subsection .61. This section also identifies what action the Department will take when reported changes require deletion of a child's photograph and description from the photo-listing service.

Factual Basis:

Section 224b of the Civil Code mandates the Department to reflect in the photo-listing service any change in a child's photo-listing status, reported by the agency, within 30 working days of receipt of the change(s).

Final Modification:

Section 70-202.62

Subsection 70-202.62 was modified by changing "will" in the first sentence to the regulatory "shall." The rest of this subsection remains Handbook and was numbered 70-202.621. We deleted "item number .61" from the beginning of the sentence and added "a significant change" to parallel the language in Subsection 70-202.61(a) through (d). This subsection informs the agency how the Department will reflect significant changes in the photo-listing status of children registered with the service.

Sections 70-202.63, .631, and .632

Specific Purpose:

The specific purpose of these sections is to require the agency to update registrations of children on an annual basis, to establish a time frame for submission of updates, and to set forth the requirements for updating registrations.

Factual Basis:

Section 224b of the Civil Code mandates the agency to submit to the photo-listing service within 15 working days following a one-year period of registration, a revised photograph and description of each child registered with the photo-listing service.

Final Modification:

Section 70-202.631

Subsection 70-202.631 was modified by changing the cross reference to Subsection 70-202.511 "(a) through (c)" to "(a) through (d)" to reflect the relettering of Subsection 70-202.511.

Section 70-202.64

Specific Purpose:

The specific purpose of this section is to ensure that all children who have been legally freed, and whose case plan goal is adoption, have been registered with the photo-listing service, to monitor the photo-listing status of those children who are registered with the photo-listing service, and to make certain that deferrals have not exceeded the established time frames.

Factual Basis:

Section 224b of the Civil Code mandates a semiannual review, by the Department, of the photo-listing status of all legally freed children whose case plan goal is adoption, including those who are registered with the photo-listing service and those who have had their registration deferred.

Final Modification:

Section 70-202.64

Subsection 70-202.64 was modified by changing "will" to the regulatory "shall" and as a consequence this subsection becomes regulation rather than Handbook. Also, the sentence was restructured for clarity by moving "semi-annually" from

the end of the sentence, to the beginning of the sentence following the word "review."

c) Identification of Documents Upon Which Department is Relying

Assembly Bill (AB) 4295, Chapter 445, Statutes of 1986.

d) Testimony Summary and Response

These proposed regulations were considered at a public hearing on May 20, 1987. The Department received no comments, written or oral, during the public comment period. However, the Department made several changes to the regulations which required a 15-Day Renotice of modified text (see final modifications following the factual basis section of the Final Statement of Reasons).

e) Local Mandate Statement

These regulations do impose a mandate upon local agencies but not school districts. There are, however, no state mandated costs in these regulations which require state reimbursement under Section 17500 et seq. of the Government Code because any costs associated with the implementation of these regulations are negligible costs to placement agencies, including county welfare departments.

f) Statement of Potential Cost Impact on Private Persons or Businesses

The Department has determined that these regulations will result in no cost impact on private persons or businesses.

g) Small Business Impact Statement

The Department has determined that these regulations will result in no significant adverse fiscal impact on small businesses.

h) 15-Day Renotice Statement

In compliance with Government Code Section 11346.8(c) the Department made available a notice of changes made to the proposed regulations subsequent to public hearing. The notice and complete text of the modified language with changes clearly indicated were made available to the public for comment from August 7, 1987 to August 24, 1987. No written or oral comments were received during this 15-day comment period.

Amend Section 70-202 to read:

70-202 RECRUITMENT - AGENCY ADOPTION

70-202

•5 The agency shall register with the Department's photo-listing service each child who has been freed for adoption and whose case plan goal is adoption.

•51 In order to register the child, the agency shall submit the following to the Department:

•511 Two recent photographs of the child which are:

HANDBOOK

(a) Black and white photographs are preferred because they reproduce more clearly than color photographs, but if not available, color is acceptable;

(b) head-to-chest close-ups;

(c) no smaller than 3 1/2 inches by 3 1/2 inches in dimension;

(d) taken no more than six months prior to registration.

•512 A description of each child being registered.

(a) The description of each child shall be submitted, typewritten, on the Photo-Listing Data Sheet (AD 909) under the "Description of Child" section of the form.

(b) The "Description of Child" section of Form AD 909 shall be no less than four concise paragraphs which contain, but are not limited to, the following:

1. Include in the first paragraph:

(A) the child's date of birth;

(B) the child's religious preference; if no preference, indicate "NONE";

(C) whether the child is a member of a sibling group;

(D) the child's ethnicity: if a child is of a mixed background, identify the ethnicities, such as, but not limited to, Black/White, Hispanic/Asian, etc.

2. Include in the second paragraph some positive statements about the child's personality, outside or special interests, achievements, and aspirations.

HANDBOOK

(A) A personalized statement from the child on the kind of family environment he/she would prefer or just a statement in general from the child is encouraged, but is not a prerequisite to register.

3. Include in the third paragraph a summary of the child's medical, educational, psychological, and behavioral problems, if any, and measures that are being taken to decrease or eliminate those problems.

4. Include in the fourth paragraph:

(A) placement restrictions, such as, but not limited to, geographic, which may sever ties between relatives or significant others;

(B) the type of family sought, one or two parents, and the characteristics they should possess;

(C) the desired position of the child in the prospective adoptive family; and

(D) whether the child is eligible for AAP payments.

.52 Licensed adoption agencies shall send a recent photograph and description of each child to the photo-listing service within 15 working days of the time the child is legally freed for adoption.

.521 The 15-working-day time period shall commence on the first working day following the date on which the Acknowledgement and Confirmation of Receipt of Relinquishment Documents (AD 4333) is signed by the Department.

.522 When an appeal has been filed challenging the initial court decision of termination of parental rights, the child shall not be photo-listed during the appeal process.

(a) After appeal, the child shall be registered with the photo-listing service within 15 working days after the court's final order of termination of parental rights.

(1) Registration shall conform to Sections 70-202.5 and .512.

.53 When adoption is the case plan goal for a child, the agency may photo-list that child prior to the child's becoming legally freed for adoption.

.531 Consent to register the child shall be obtained by the agency from the birth parent(s), legal guardian, or the court.

(a) Once consent has been obtained, the child shall be registered within 15 working days.

.54 The agency shall defer a child's registration when the child's foster parent(s) or other identified persons have applied to adopt the child.

.541 A child who has been deferred due to pending applications for his/her adoption shall be listed with the photo-listing service within 60 working

days of the date on which the child was legally freed, unless a "Notice of Placement" (AD 558) has been filed.

.55 A child who is 12 years of age, or older, and does not consent to be adopted, shall be deferred from the photo-listing service.

.551 If a child 12 years of age, or older, consents to his/her adoption, subsequent to an initial decision not to consent to his/her adoption, the agency shall register the child within 15 working days following the child's consent.

- .56 The Department shall list the child in the photo-listing book within 30 working days following receipt of the items enumerated in Sections 70-202.511(b) through (d), and 70-202.512(a) and (b)(1) through (4).

Authority Cited: Section 10554, Welfare and Institutions Code.

Reference: Section 224b, Civil Code.

Amend Section 70-202 to read:

70-202 RECRUITMENT - AGENCY ADOPTION (Continued)

70-202

.6 Licensed adoption agencies shall notify the photo-listing service, by telephone, of any adoptive placements or of any significant changes in the child's photo-listing status within two working days of that change.

.61 Significant change means:

- (a) the child's case plan goal is revised to other than adoption;
- (b) the child has reached the age of 12 and will not consent to be adopted;
- (c) there is a change in the child's physical, mental or behavioral state; or
- (d) the child dies.

.62 The Department shall reflect the change in a child's photo-listing status, in the photo-listing book within 30 working days of receipt of the change(s) from the agency.

HANDBOOK

.621 When a significant change necessitates deletion of a description and picture of a child from the photo-listing service, the Department will issue to all subscribers of the service, a revised insert stamped "REMOVED" or "PLACED," as appropriate, across the narrative description.

.63 The agency shall submit to the Department, within 15 working days following a one-year period in which a child is registered with the photo-listing service, an updated photograph and description of each child registered with the photo-listing service.

.631 The photograph shall comply with the requirements set forth in Sections 70-202.511, (b) through (d).

.632 The description of the child shall comply with the requirements set forth in Sections 70-202.512(a) and (b)(1) through (4).

.64 The Department shall review, semi-annually, the photo-listing status of all legally freed children whose case plan goal is adoption, including those who are registered with the photo-listing service and those whose registrations have been deferred.

Authority Cited: Section 10554, Welfare and Institutions Code.

Reference: Section 224b, Civil Code.

FILED

In the office of the Secretary of State
of the State of California

NOV 13 1987

At _____ o'clock _____ P.M.

MARCH FONG EU, Secretary of State

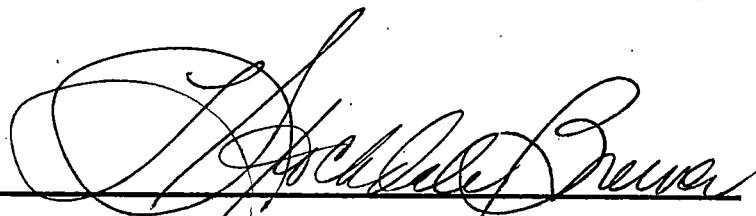
March Fong Eu
Secretary of State

OFFICE OF ADMINISTRATIVE LAW CERTIFICATION OF APPROVAL

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Department of Social Services

DAL File No: 87-1015-03



LINDA HURDLE STOCKDALE BREWER
DIRECTOR

11-13-87

Date

FACE SHEET

(See Instructions on Reverse)

SUBMITTED FOR REVIEW

OCT 20 1987

OFFICE OF ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING

NOV 16 1987

Office of Administrative Law

For use of Office of Adm Law

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

DEPARTMENT OF SOCIAL SERVICES

(AGENCY)

J. L. S. Michael
AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date:

10/15/87

RDB #0986-42

FILED

In the office of the Secretary of State
of the State of California

NOV 16 1987

At 4:18 o'clock P. M.

MARCH FONG EU, Secretary of State

By *Peter Bate*
Deputy Secretary of State

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING
(See instructions)
Rosalie Clark, Chief, Regulations Development Bureau
TITLE
TELEPHONE
445-0313
2. Type of filing, (check one) ☒ 30-day Review ☐ Emergency ☐ Certificate of Compliance (Complete Part 4 below)
☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction
3. a. Specify California Administrative Code title and sections as follows:
Title 22
SECTIONS ADOPTED:
SECTIONS AMENDED: 80044(a) and 87124(c)
SECTIONS REPEALED:
b. The following sections listed in 3a contain modifications to the text originally made available to the public:
4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)
☐ prior to the emergency adoption
☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.
5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?
☐ No ☒ Yes, if yes, give date(s) of prior submittal(s) to OAL: August 5, 1987
6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?
☒ No ☐ Yes, if yes, give date statement was submitted to OAL
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☐ Fair Political Practices Commission (Include FPPC approval stamp) ☐ Building Standards Commission (Attach approval)
☐ State Fire Marshall (Attach approval) ☐ Department of Finance (Attach properly signed Std. 399)
☐ Other (SPECIFY AGENCY)
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January 30, 1987
b. DATE OF FINAL AGENCY ACTION
October 15, 1987
c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c))
9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)
a. ☒ Effective 30th day after filing with the Secretary of State.
b. ☐ Effective upon filing with the Secretary of State.
c. ☐ Effective on _____ as required or allowed by the following statute(s):
d. ☐ Effective on _____ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)
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- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
- a. Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
- b. Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
- c. Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- a. A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
- b. An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
- c. If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
- d. If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
- e. If an effective date later than specified above is requested, provide the date.

FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- *Seven (7) copies of the regulations.* Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- *A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400* attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- *Complete rulemaking file, with index and sworn statement.* (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

DELEGATED AUTHORITY ORDER

I hereby authorize and designate Rosalië P. Clark, Chief, Regulations Development Bureau as the agency contact person who has authority to make decisions and answer questions regarding this regulation order.

A handwritten signature in cursive script, appearing to read "Linda S. McMahon".

LINDA S. McMAHON
Director

Amend and renumber Section 80044(a) to read:

80044 INSPECTION AUTHORITY OF THE DEPARTMENT OR
LICENSING AGENCY

80044

(a) The Department or licensing agency shall have the inspection authority specified in Health and Safety Code Sections 1526.5, 1533, 1534, and 1538.

(1) Health and Safety Code Section 1526.5 provides in part:

Within 90 days after the date of issuance of a license or special permit pursuant to Section 1525, the Department shall conduct an inspection of the facility for which the license or special permit was issued.

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(2) (Continued)

(3) (Continued)

(4) (Continued)

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1526.5, 1531, 1533, 1534, and 1538, Health and Safety Code.

Amend Section 87124 to read:

87124 INSPECTION AUTHORITY (Continued)

87124

(c) The Department shall have the inspection authority as specified in Health and Safety Code Section 1569.24.

(1) Health and Safety Code Section 1569.24 provides in part:

Within 90 days of initial licensure, the Department shall inspect the facility to evaluate compliance with rules and regulations and to assess the facility's continuing ability to meet regulatory requirements.

H
A
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H

Authority Cited: Section ~~1538~~, 1569.30, Health and Safety Code.

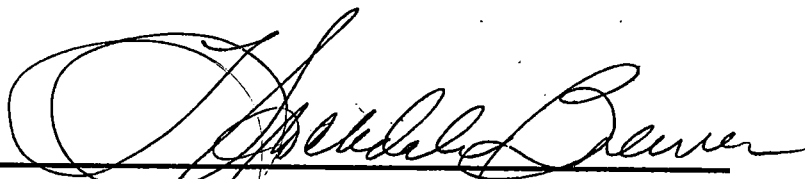
Reference: Sections ~~1533~~, ~~1534~~, ~~1537~~, and ~~1538~~, 1569.24, 1569.33, 1569.34, and 1569.35, Health and Safety Code.

OFFICE OF ADMINISTRATIVE LAW CERTIFICATION OF APPROVAL

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Department of Social Services

DAL File No: 87-1020-01R



LINDA HURDLE STOCKDALE BREWER
DIRECTOR

11-13-87
Date

FACE SHEET

87-1120-02E
(See Instructions on Reverse)

SUBMITTED FOR REVIEW

NOV 20 1987

OFFICE OF ADMINISTRATIVE LAW

ENDORSED

APPROVED FOR FILING

NOV 25 1987

Office of Administrative Law

For use of Office of Adm Law

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

RDB# 1087-48

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

Department of Social Services

(AGENCY)
John S. McHugh
AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: 11/17/87

FILED

In the office of the Secretary of State
of the State of California

NOV 25 1987

At 5 o'clock P.M.

MARCH TONG EU, Secretary of State

By *John S. McHugh*
Deputy Secretary of State

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions)
Rosalie P. Clark, Chief, Regulations Development Bureau
445-0313
2. Type of filing, (check one)
☐ 30-day Review
☒ Emergency
☐ Certificate of Compliance (Complete Part 4 below)
☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
☐ Nonsubstantive changes with nonregulatory effect
☐ Printing Error Correction
3. a. Specify California Administrative Code title and sections as follows:
Title _____
SECTIONS ADOPTED: Section 63-076, Manual of Policies and Procedures
SECTIONS AMENDED: Sections 63-501.3(k), 63-501.3(n), 63-502.13, and 63-502.2.
SECTIONS REPEALED: _____
b. The following sections listed in 3a contain modifications to the text originally made available to the public: n/a
4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)
☐ prior to the emergency adoption
☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.
5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?
☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL: _____
6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?
☒ No ☐ Yes, if yes, give date statement was submitted to OAL: _____
7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)
☐ Fair Political Practices Commission (Include FPPC approval stamp)
☐ Building Standards Commission (Attach approval)
☐ State Fire Marshall (Attach approval)
☒ Department of Finance (Attach properly signed Std. 399)
☐ Other _____ (SPECIFY AGENCY)
8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER
n/a
b. DATE OF FINAL AGENCY ACTION
November 19, 1987
c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c))
n/a
9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse).
a. ☐ Effective 30th day after filing with the Secretary of State.
b. ☐ Effective upon filing with the Secretary of State.
c. ☐ Effective on _____ as required or allowed by the following statute(s): _____
d. ☐ Effective on _____ (Designate effective date earlier than 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
e. ☒ Effective on 12/01/87 (Designate effective date later than the normal effective date for the type of order filed.)

INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
- a. Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
 - b. Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
 - c. Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- a. A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
 - b. An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
 - c. If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
 - d. If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
 - e. If an effective date later than specified above is requested, provide the date.

FILING REQUIREMENTS

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- *Seven (7) copies of the regulations.* Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- *A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400* attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- *Complete rulemaking file, with index and sworn statement.* (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

DELEGATED AUTHORITY ORDER

I hereby authorize and designate Rosalie P. Clark, Chief, Regulations Development Bureau as the agency contact person who has authority to make decisions and answer questions regarding this regulation order.

A handwritten signature in dark ink, appearing to read "Linda S. McMahon". The signature is fluid and cursive, with the first name "Linda" and last name "McMahon" clearly distinguishable.

LINDA S. McMAHON
Director

Adopt Section 63-076 to read:

63-076 IMPLEMENTATION OF INCOME AND RESOURCE ELIGIBILITY 63-076
REQUIREMENTS

- .1 The amended provisions in Section 63-076.2 shall be implemented as follows:
 - .11 Effective December 1, 1987, the CWDs shall implement the amended provisions for all new food stamp applications and continuing cases.
 - .12 In accordance with 7 CFR 272.1(g)(90), benefits shall be restored to entitled households upon request by the household, or when the CWD otherwise becomes aware that benefits should be restored. Restored benefits are to be provided back to the date of application or April 1, 1987, whichever occurred later.
- .2 The sections affected by these revisions are as follows: Sections 63-501.3(k)(12); 63-501.3(n); 63-502.135; and 63-502.2(k)(3).

Authority Cited: Sections 18904 and 10553, Welfare and Institutions Code.

Reference: Sections 18901 and 18902, Welfare and Institutions Code and 7 CFR 272.1(g)(90).

Amend Section 63-501.3(k) to read:

63-501 RESOURCE DETERMINATIONS (Continued)

63-50

.3 Exclusions from Resources (Continued)

(k) (Continued)

(1) (Continued)

(2) (Continued)

(3) (Continued)

(4) (Continued)

(5) (Continued)

(6) (Continued)

(7) (Continued)

(8) (Continued)

(9) (Continued)

(10) (Continued)

(11) (Continued)

(12) Property, real or personal, to the extent that it is directly related to the maintenance or use of a vehicle excluded under Sections 63-501.521(a), (b) or (f). Only that portion of real property determined necessary for maintenance or use is excludable under this provision.

HANDBOOK

For example, a household which owns a produce truck to earn its livelihood may be prohibited from parking the truck in a residential area. The household may own a 100-acre field and use a quarteracre of the field to park and/or service the truck. Only the value of the quarteracre would be excludable under this provision, not the entire 100-acre field.

Authority Cited: Sections 18904 and 10553, Welfare and Institutions Code.

Reference: Sections 18901, Welfare and Institutions Code and 7 CFR 273.8(h)(1)(vi).

Amend Section 63-501.3 to read:

63-501 RESOURCE DETERMINATIONS (Continued)

63-501

.3 Exclusions from Resources (Continued)

(l) (Continued)

(m) (Continued)

(n) Non-liquid asset(s) against which a lien has been placed as a result of taking out a business loan and the household is prohibited by the security or lien agreement with the lien holder (creditor) from selling the asset(s).

Authority Cited: Sections 18904 and 10553, Welfare and Institutions Code.

Reference: Section 18901, Welfare and Institutions Code and 7 CFR 273.8(e)(15).

Amend Section 63-502.13 to read and renumber Section 63-502.135 to .136:

63-502 INCOME, EXCLUSIONS AND DEDUCTIONS (Continued) 63-502

.1 Income Definition (Continued)

.13 Earned income shall include:

.131 (Continued)

.132 (Continued)

.133 (Continued)

.134 (Continued)

.135 Earnings of individuals who are participating in on-the-job training programs under the Job Training Partnership Act of 1982 (JTPA), except as specified in Section 63-502.2(k)(3).

.1356 (Continued)

Authority Cited: Sections 18904 and 10553, Welfare and Institutions Code.

Reference: Section 18901, Welfare and Institutions Code and 7 CFR 273.9(b)(1)(v).

Amend Section 63-502.2(k)(3) to read:

63-502 INCOME, EXCLUSIONS AND DEDUCTIONS (Continued)

63-502

•2 Income Exclusions (Continued)

(j) (Continued)

(k) (Continued)

(1) (Continued)

(2) (Continued)

(3) Payments specified in Section 63-501.3(k) except for Section 63-501.3(k)(3) shall be excluded as income earnings to individuals participating in on-the-job training programs under the Job Training Partnership Act of 1982 (JTPA) as set forth in Section 63-501.3(k)(6).

(A) However, earnings of dependent household members under 19 years of age who are participating in on-the-job training under JTPA shall be excluded.

(1) For purposes of this provision, dependent means a child under 19 years of age who is under the parental control of an adult household member.

Authority Cited: Sections 18904 and 10553, Welfare and Institutions Code.

Reference: Section 18901, Welfare and Institutions Code and 7 CFR 273.9(b)(1)(v).

FILED

In the office of the Secretary of State
of the State of California

NOV 25 1987

At 5:00'clock P.M.

MADE BY, Secretary of State

By [Signature]
Deputy Secretary of State

OFFICE OF ADMINISTRATIVE CERTIFICATION OF APPROVAL

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Department of Social Services

OAL File No: 87-1120-02E

[Signature]
for LINDA STOCKDALE BREWER
DIRECTOR

11/25/87

Date

FACE SHEET

(See Instructions on Reverse)

RDB #0687-32

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW
CERTIFICATION: I hereby certify that the attached
are true and correct copies of regulations
adopted, amended or repealed by this agency
and that the information specified on this Face
Sheet is true and correct.

FILED
In the office of the Secretary of State
of the State of California

NOV 25 1987
At 5:00 o'clock P.M.
MARCH FONG EU, Secretary of State
By *John A. Allen*
Deputy Secretary of State

11/2/87
OFFICE OF ADMINISTRATIVE LAW
ENDORSED
APPROVED FOR FILING
NOV 25 1987
Office of Administrative Law

State Department of Social Services

(AGENCY)

Julie S. Melchior

AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: 11/2/87

For use of Office of Adm Law

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING
(See instructions) TITLE TELEPHONE
Rosalie Clark, Chief, Regulations Development Bureau (916) 445-0313
2. Type of filing, (check one) ☐ 30-day Review ☐ Emergency ☒ Certificate of Compliance
☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction
(Complete Part 4 below)
3. a. Specify California Administrative Code title and sections as follows:
Title MPP
SECTIONS ADOPTED: 63-069
SECTIONS AMENDED: 63-102e, h., m., and r.; 63-103.21; 63-402.4 and .64; 63-503.6;
and 63-604.5 and .8
SECTIONS REPEALED: _____
b. The following sections listed in 3a contain modifications to the text originally made available to the public: _____
4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency
complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)
☐ prior to the emergency adoption
☒ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.
5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?
☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL: _____
6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the
agency's review of regulations administered by it as of June 30, 1980?
☒ No ☐ Yes, if yes, give date statement was submitted to OAL: _____
7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)
☐ Fair Political Practices Commission (Include FPPC approval stamp) ☐ Building Standards Commission (Attach approval)
☐ State Fire Marshall (Attach approval) ☐ Department of Finance (Attach properly signed Std. 399)
☐ Other _____ (SPECIFY AGENCY)
8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER July 31, 1987
b. DATE OF FINAL AGENCY ACTION NOV 2, 1987
c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c)) Not Applicable
9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)
a. ☐ Effective 30th day after filing with the Secretary of State.
b. ☒ Effective upon filing with the Secretary of State.
c. ☐ Effective on _____ as required or allowed by the following statute(s): _____
d. ☐ Effective on _____ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
e. ☐ Effective on _____ (Designate effective date *later than* the normal effective date for the type of order filed.)

INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
- Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
 - Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
 - Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
 - An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
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 - If an effective date later than specified above is requested, provide the date.

FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

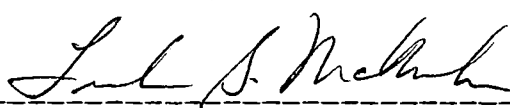
- *Seven (7) copies of the regulations.* Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- *A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400* attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- *Complete rulemaking file, with index and sworn statement.* (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

CERTIFICATE OF COMPLIANCE - Section 11346.1(e), Government Code

The Department of Social Services hereby certifies that it has complied with the provisions of Sections 11346.4 through 11346.8 inclusive of the Government Code, within 120 days of the August 1, 1987, effective date of the following emergency regulations which were filed with the Secretary of State on July 31, 1987, and which became effective on August 1, 1987.

Sections:

No Amendments or repealers resulted from the public hearing held on September 16, 1987.



LINDA S. McMAHON
Director

11/2/87
Date

DELEGATED AUTHORITY ORDER

I hereby authorize and designate Rosalie P. Clark, Chief, Regulations Development Bureau as the agency contact person who has authority to make decisions and answer questions regarding this regulation order.

A handwritten signature in cursive script, appearing to read "Linda S. McMahon".

LINDA S. McMAHON
Director

FINAL STATEMENT OF REASONS

a) Description of the Public Problem, Administrative Requirement, or Other Condition or Circumstance the Regulations Are Intended to Address

These emergency regulations, in accordance with Public Law 99-570 and federal regulations published March 11, 1987, now allow homeless food stamp recipients to use their food stamp coupons to purchase prepared meals served by an authorized public or private nonprofit establishment that feeds homeless persons.

Currently, residents of shelters for the homeless are allowed to participate in the Food Stamp Program (FSP) because they are considered residents of institutions. These provisions specify that these residents are not to be categorized as residents of institutions, thereby allowing them to participate in the FSP. The county welfare departments (CWDs) are responsible for approving meal providers based on the determination that these providers serve meals to the homeless. This approval is part of the Food and Nutrition Service's (FNS) authorization process to certify these facilities to act as retail food stores and accept food stamp coupons.

These amendments also define a "homeless food stamp household," as one that does not have a fixed mailing address or does not reside in a permanent dwelling.

B) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are NecessarySection 63-069Specific Purpose:

The specific purpose of this amendment provides CWDs with a specific date by which all provisions contained in these emergency regulations are to be implemented. By providing this direction, departmental reviewing and/or auditing units can easily determine if a county is out of compliance. The specific date also provides for uniform statewide implementation of these regulations.

Factual Basis:

These provisions are consistent with Sections 18902 and 18904 of the Welfare and Institutions Code. The August 1, 1987 effective date is consistent with departmental policy to make regulations effective on the first of the month for county administrative ease in the implementation of regulation changes.

Section 63-102

Specific Purpose:

The specific purpose of the amendment to Section 63-102e.(2)(G) provides the federal definition of "eligible food" and includes, for example, any food or food products intended for human consumption except alcoholic beverages, tobacco, and hot foods and hot food products prepared for immediate consumption. Food stamps may only be used to purchase the eligible foods listed in this section. The revision to this section added meals prepared for and served to homeless food stamp households by public or private nonprofit establishments which have been authorized by the Food and Nutrition Service (FNS) to accept food stamp coupons. These provisions are only applicable to homeless food stamp recipients.

Specific Purpose:

The specific purpose of the amendment to Section 63-102h.(I) adds the term "homeless food stamp household" to the definition section of the Food Stamp Manual. "Homeless food stamp household" is defined as a household which has no fixed mailing address or does not reside in a permanent dwelling. This addition provided clarity and consistency to these regulations by providing a specific definition of a new and often used term for the purposes of these provisions. Editorial changes were made to renumber the section because of this revision and to maintain the alphanumeric sequence.

Specific Purpose:

The specific purpose of the amendment to Section 63-102m.(2) adds the term "meal provider for the homeless" to the food stamp definition section, and defines it as a public or private nonprofit establishment that feeds homeless persons, such as a soup kitchen or shelter which is authorized by FNS to accept food stamp coupons. Editorial changes to renumber this section were made to maintain the numbering sequence. The federal definition of "homeless meal provider" was not adopted because the term is not clear or concise and implies that the meal provider is homeless. The term "meal provider for the homeless" is being adopted instead and is used consistently throughout these regulations.

Specific Purpose:

The specific purpose of the amendment to Section 63-102r.(4)(B) revised the definition of "retail food store" by adding that public or private nonprofit establishments that feed homeless persons are considered to be a retail food store for the purpose of being authorized by FNS to accept food stamp coupons.

Factual Basis:

All the amendments in the definition section comply with new federal regulations 7 CFR 271.2 and 278.1 published in Federal Register Vol. 52, No. 47, dated Wednesday, March 11, 1987. 7 CFR 271.2 contains the additional definitions outlined in these proposed regulations, and 7 CFR 278.1(g) specifies that meal providers must obtain FNS authorization to accept food stamps from homeless food stamp recipients. These provisions are consistent with Sections 18902 and 18904 of the Welfare and Institutions Code.

Section 63-103.21j.

Specific Purpose:

The specific purpose of this section specifies that the administrative responsibility referenced in the federal regulations to approve establishments and shelters for the homeless has been delegated to the CWDs. The approval is based on a determination by the CWD, that the establishments do in fact serve meals to the homeless. The approval or denial must be in writing and provided to the establishment within 30 calendar days from receipt of request. A self-certification signed by the meal provider is considered acceptable documentation to meet this approval requirement which is part of the FNS authorization process. The approval may be granted for an indefinite period, however, if there is evidence that the meal provider is no longer serving meals to the homeless, the approval must be withdrawn. The proposed amendment also adds that the CWDs may identify another appropriate local governmental agency to provide this service, but must remain responsible for insuring that these provisions are carried out.

Factual Basis:

This section is consistent and complies with federal regulation 7 CFR 272.9 which specifies that the state food stamp agency or another appropriate state or local governmental agency identified by the state food stamp agency, shall approve establishments and shelters serving the homeless. This section also provides consistency with 7 CFR 278.1 which specifies that meal providers must provide written documentation of approval from the appropriate state or local agency as part of the authorization process required by FNS. These provisions are also consistent with Section 18902 of the Welfare and Institutions code.

The Department included a 30 day time frame to approve or deny meal providers to ensure that the requests were processed in a reasonable period of time, and to provide a uniform time standard for all the CWDs to follow. The 30 day time frame is also consistent with the 30 day standard FNS allows to complete their authorization process. Based on the preamble to the federal regulations (page 7555), the Department also included the provision that approvals could be granted indefinitely. The intent of this provision is to keep the process simple and not impose a significant burden on the CWD. In addition, 7 CFR 278.1(h) specifies that meal providers are responsible for obtaining the county approval, and that if this approval is withdrawn, FNS authorization is also withdrawn. Therefore, a provision was also added that the approval must be withdrawn by the CWD if it receives evidence that the meal provider is no longer serving meals to the homeless.

Section 63-402.46

Specific Purpose:

This section defines residents of institutions as individuals that reside in an institution that provides them with the majority of their meals as part of the institution's normal services. These residents of institutions are not eligible to participate in the Food Stamp Program. The section also lists several groups of individuals that are not considered residents of institutions.

The specific purpose of this amendment is to add residents of public or private nonprofit shelters for homeless persons to that group of exempted individuals, thereby allowing these residents to participate in the Food Stamp Program.

Factual Basis:

This amendment is consistent and complies with federal regulation 7 CFR 273.1 and is consistent with Section 18901 of the Welfare and Institutions Code.

Section 63-402.645

Specific Purpose:

This section lists the restrictions that apply to authorized representatives. The specific purpose of this amendment adds another restriction that prohibits meal providers for the homeless from acting as authorized representatives for homeless food stamp recipients.

Factual Basis:

This amendment is consistent and complies with federal regulation 7 CFR 273.1(f)(4)(iv) and is consistent with Section 18901 of the Welfare and Institutions Code.

Section 63-503.6

Specific Purpose:

The specific purpose of this amendment adds homeless food stamp households to the section entitled "Households with Special Circumstances," and establishes that these households are permitted to use their food stamp benefits to purchase prepared meals from meal providers for the homeless, if the establishment has been authorized by FNS to accept food stamp coupons.

Factual Basis:

This amendment is consistent and in compliance with federal regulation 7 CFR 273.11(h) and is consistent with Section 18901 of the Welfare and Institutions Code.

Section 63-604.5

Specific Purpose:

The specific purpose of this amendment revises the section by adding that homeless food stamp households are allowed to use their food stamp benefits to purchase prepared meals from establishments and shelters that have been authorized by FNS to accept food stamp coupons. Editorial changes to renumber this section were also made to maintain the alphanumeric sequence.

Factual Basis:

This proposed amendment is consistent and in compliance with federal regulation 7 CFR 274.10(e) and is consistent with Section 18901 of the Welfare and Institutions Code.

Section 63-604.8

Specific Purpose:

This section formerly specified that households shall receive cash change not to exceed 99 cents. The specific purpose of this amendment specifies that in the case of homeless food stamp households, neither cash change nor credit slips be returned for coupons used for the purchase of prepared meals from authorized meal providers for the homeless. The meal providers may use uncanceled and unmarked \$1 coupons which were previously accepted for meals served to food stamp recipients when change is required for \$5 and \$10 coupons.

Factual Basis:

This amendment is consistent and in compliance with federal regulation 7 CFR 274.10(i) and is consistent with Section 18901 of the Welfare and Institutions Code.

c) Identification of Documents Upon Which Department is Relying

Sections 10554, 18901, 18902, and 18904, Welfare and Institutions Code; 7 CFR 271.2; 7 CFR 272.9; 7 CFR 273.1(e)(5) and (f)(4)(iv); 7 CFR 273.11(h); and 7 CFR 274.10(e) and (i); 7 CFR 278.1(g) and (h), and Public Law 99-570.

d) Testimony Summary and Response

The Department received no oral testimony regarding this filing at the September 16, 1987 public hearing. There was only one testifier (Los Angeles County) which submitted written testimony. The comments and the Department's responses to the comments follow.

Section 63-069.1

Comment

Los Angeles County commented that if the August 1, 1987 implementation date is adopted, CWDs will be out of compliance. They recommend that the implementation date be no earlier than 30 days after final regulations are received by the CWD.

Response

Since these regulations have already been implemented, this comment is moot; however, it should be noted that when effective dates are established, CWD implementation is always a consideration. The Department recognizes that emergency regulations can increase compliance problems and the counties are included in discussions regarding all draft regulations prior to their implementation in an effort to alleviate major problems at the county level. This package was processed on an emergency basis in order to expedite assistance to the homeless in meeting their food needs and was not anticipated to cause compliance problems.

Section 63-103

Comment

Los Angeles County commented that the requirement for the CWDs to approve meal providers for the homeless will result in some additional workload, and recommend that additional state or federal funding be provided to CWDs in order to fund this function.

Response

While there is some additional workload as a result of this provision, every effort was made to ensure that the system of approving meal providers was as simple and cost-effective as possible. This was accomplished through the development of a self-certification process. This process was determined by the Department to have a minimal cost impact which would not require a change to the county's allocations.

e) Local Mandate Statement

These regulations do impose a mandate upon local agencies, but not school districts. There are no "state-mandated local costs" in these regulations which require state reimbursement under Sections 17500 et seq. of the Government Code because any increased costs associated with the implementation of these regulations are costs mandated by the federal government within the meaning of Government Code Section 17513.

f) Statement of Potential Cost Impact on Private Persons or Businesses

The Department has determined that there will be a minimal cost impact on private persons or businesses as a result of this filing. Funding will increase to private nonprofit agencies that feed the homeless by allowing them to accept food coupons for the meals served. These meals are generally served without charge to the individuals.

g) Small Business Impact Statement

The Department has determined that there will be no cost impact on small businesses as a result of this filing.

UPDATED INFORMATIVE DIGEST

These emergency regulations, in accordance with Public Law 99-570 and federal regulations published March 11, 1987, allow homeless food stamp recipients to use their food stamp coupons to purchase prepared meals served by an authorized public or private nonprofit establishment that feeds homeless persons. Current regulations now authorize homeless food stamp recipients to purchase prepared meals. These amendments specify that temporary residents of shelters for the homeless are no longer categorized as residents of institutions, qualifying them to participate in the Food Stamp Program. These amendments added a definition for a "homeless food stamp household" as one that does not have a fixed mailing address or does not reside in a permanent dwelling. These amendments also defined a "meal provider for the homeless" to mean a public or private nonprofit establishment that feeds homeless persons (e.g., soup kitchen or shelter) which has been authorized by the Food Nutrition Service (FNS) to accept food coupons. In addition, the definitions for "eligible food," "meal delivery service," and "retail food store" were amended to be consistent with the new federal regulations.

These amendments also established county welfare departments (CWDs) as responsible for approving meal providers based on the determination that these providers serve meals to the homeless. Such providers are not eligible to act as authorized representatives for the homeless food stamp recipients.

Finally, these amendments provided that uncanceled and unmarked one dollar (\$1.00) coupons which were previously accepted for meals served shall be tendered when change is required. Previous regulations mandated that cash be returned when change is required for an amount less than \$1.00.

63-069 IMPLEMENTATION OF PURCHASE OF PREPARED MEALS BY 63-069
HOMELESS FOOD STAMP RECIPIENTS

- 1 Effective August 1, 1987, CWDs shall implement the amended or adopted provisions listed below relating to the purchase of prepared meals by homeless food stamp recipients.
- 2 Sections affected by these revisions are 63-102e.(2)(G), h.(1), m.(2), r.(4)(8); 63-103.21j; 63-402.46; 63-402.645; 63-503.6; 63-504.5 and .8.

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: Sections 18902 and 18904, Welfare and Institutions Code.

63-102 DEFINITIONS (Continued)

63-102

e. (1) (Continued)

(2) "Eligible food" means: (Continued)

(G) Meals prepared for and served to homeless food stamp households by a public or private nonprofit establishment (e.g., soup kitchen or shelter), which has been authorized by the Food and Nutrition Service (FNS) to accept food stamp coupons. This provision only applies to homeless food stamp households.

63-102 DEFINITIONS (Continued)

63-102

h. (1) "Homeless food stamp household" means an eligible food stamp household which has no fixed mailing address or does not reside in a permanent dwelling.

(2) (Continued)

(3) (Continued)

63-102 DEFINITIONS (Continued)

63-102

m. (1) (Continued)

(2) "Meal provider for the homeless" means a public or private nonprofit establishment that feeds homeless persons, (e.g., soup kitchen or shelter), which has been authorized by the Food and Nutrition Service (FNS) to accept food stamp coupons.

(3) (Continued)

(4) (Continued)

(5) (Continued)

(6) (Continued)

63-102 DEFINITIONS (Continued)

63-102

r. (Continued)

(4) "Retail food store" means: (Continued)

- (B) Public or private communal dining facilities and meal delivery services, drug addict or alcoholic treatment and rehabilitation programs, public or private nonprofit shelters for battered women and children, or public or private nonprofit group living arrangements which accept food stamps in exchange for meals, and public or private nonprofit establishments that feed homeless persons, (e.g., soup kitchens or shelters), which have been authorized by the Food and Nutrition Service (FNS) to accept food stamp coupons.

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: Section 18901, Welfare and Institutions Code and 7 CFR 271.2.

•2 State Agency Delegations to County Agencies

- 21 Under California law SDSS hereby delegates administration of the Food Stamp Program to the CWD, subject to SDSS regulatory and rulemaking authority. CWD administrative responsibilities include, but are not limited to: (Continued)

j. Approval of meal providers for the homeless, as defined in Section 63-102(m), based on a determination by the CWD that the establishment or shelter serves meals to homeless persons.

- (1) The approval or denial shall be provided in writing to these establishments within 30 calendar days from receipt of request.
- (2) Self-certifications signed by the meal providers for the homeless may be considered acceptable documentation to meet this approval requirement.
- (3) The approval may be granted indefinitely; however, if there is evidence that the meal provider is no longer serving meals to the homeless, the approval shall be withdrawn.
- (4) The CWD may designate another appropriate local governmental agency to provide this service; however, the CWD shall remain responsible for insuring that this provision is effectively carried out.

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: Section 18902, Welfare and Institutions Code; 7 CFR 272.9; and 7 CFR 278.1(g).

.4 Residents of Institutions

Individuals shall be considered residents of an institution when the institution provides them with the majority of their meals as part of the institution's normal services. Residents of institutions are not eligible for participation in the Food Stamp Program. The following individuals shall not be considered as residents of institutions: (Continued)

- .46 Residents of public or private nonprofit shelters for homeless persons.

.6 Authorized Representatives

- .64 Restrictions. The following restrictions apply to authorized representatives: (Continued)

- .645 Meal providers for the homeless, as defined in Section 63-102m., shall not be allowed to act as authorized representatives for homeless food stamp recipients.

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: Section 18901, Welfare and Institutions Code and 7 CFR 273.1(e)(5) and (f)(4)(iv).

63-503 DETERMINING HOUSEHOLD ELIGIBILITY AND BENEFIT LEVELS 63-503
(Continued)

•6 Homeless Food Stamp Households

Homeless food stamp households shall be permitted to use their food stamp benefits to purchase prepared meals from meal providers for the homeless which have been authorized by the Food and Nutrition Service (FNS) to accept food stamp coupons.

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: Section 18901, Welfare and Institutions Code and 7 CFR 273.11(h).

63-604 USE OR REDEMPTION OF COUPONS BY ELIGIBLE HOUSEHOLDS 63-604
(Continued)

•5 Homeless Food Stamp Households

Homeless food stamp households shall be allowed to use their food stamp benefits to purchase prepared meals from meal providers for the homeless.

•6 (Continued)

•7 (Continued)

•8 Cash Change

When change in an amount less than \$1 is required in a coupon transaction, the household shall receive the change in cash not to exceed 99 cents.

However, in the case of homeless food stamp households, neither cash change nor credit slips shall be returned for coupons used for the purchase of prepared meals from authorized meal providers for the homeless. Such meal providers may use uncanceled and unmarked \$1 coupons which were previously accepted for meals served to food stamp recipients when change is required for \$5 and \$10 coupons.

•9 (Continued)

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: Section 18901, Welfare and Institutions Code and 7 CFR 274.10(e) and (i).

FILED

In the Office of the Secretary of State
of the State of California

NOV 25 1987

At 4:50 o'clock

By MARK EUGENE, Secretary of State

Deputy Secretary of State

OFFICE OF ADMINISTRATIVE CERTIFICATION OF APPROVAL

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Department of Social Services

DAL File No: 87-1104-03C


for **LINDA STOCKDALE BREWER**
DIRECTOR

11/25/87
Date

87-1029-01C
(See Instructions on Reverse)

FACE SHEET

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

SUBMITTED FOR REVIEW

OCT 29 1987

OFFICE OF ADMINISTRATIVE LAW

ENDORSED

APPROVED FOR FILING

NOV 30 1987

Office of Administrative Law

For use of Office of Adm Law

State Department of Social Services

(AGENCY)

Jul S. Meluh
AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: *28* October 28, 1987

FILED

In the office of the Secretary of State
of the State of California

NOV 30 1987

At 4:44 o'clock P.M.

MARCH FONG EU, Secretary of State

By *Sam Bate*
Deputy Secretary of State

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions)

TITLE	TELEPHONE
Rosalie Clark Chief, Regulations Development Bureau	445-0313
2. Type of filing, (check one)

<input type="checkbox"/> 30-day Review	<input type="checkbox"/> Emergency	<input checked="" type="checkbox"/> Certificate of Compliance (Complete Part 4 below)
<input type="checkbox"/> Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)		
<input type="checkbox"/> Nonsubstantive changes with nonregulatory effect <input type="checkbox"/> Printing Error Correction		
3. a. Specify California Administrative Code title and sections as follows:

Title <u>MPP</u>	SECTIONS ADOPTED: <u>63-071</u>
	SECTIONS AMENDED: <u>63-102; 63-402.2; 63-407.21; 63-407.22; 63-407.3, .5, .6; 63-408; 63-503.443</u>
	SECTIONS REPEALED: <u>and .45</u>
- b. The following sections listed in 3a contain modifications to the text originally made available to the public: 63-402.2; 63-407.5; 63-407.6; 63-408; 63-503.443
4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)

<input type="checkbox"/> prior to the emergency adoption
<input checked="" type="checkbox"/> within 120 days of the effective date of the emergency adoption of the above-referenced regulations.
5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?

<input type="checkbox"/> No <input type="checkbox"/> Yes, if yes, give date(s) of prior submittal(s) to OAL: _____
--
6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?

<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes, if yes, give date statement was submitted to OAL _____

7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)

<input type="checkbox"/> Fair Political Practices Commission (Include FPPC approval stamp)	<input type="checkbox"/> Building Standards Commission (Attach approval)
<input type="checkbox"/> State Fire Marshall (Attach approval)	<input checked="" type="checkbox"/> Department of Finance (Attach properly signed Std. 399)
<input type="checkbox"/> Other _____ (SPECIFY AGENCY)	
8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER
July 3, 1987

b. DATE OF FINAL AGENCY ACTION <u>October 28, 1987</u>	c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c)) <u>October 2, 1987 to October 16, 1987,</u>
---	--
9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse) inclusive

a. <input type="checkbox"/> Effective 30th day after filing with the Secretary of State.
b. <input checked="" type="checkbox"/> Effective upon filing with the Secretary of State.
c. <input type="checkbox"/> Effective on _____ as required or allowed by the following statute(s): _____
d. <input type="checkbox"/> Effective on _____ (Designate effective date <i>earlier than</i> 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).) Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
e. <input type="checkbox"/> Effective on _____ (Designate effective date <i>later than</i> the normal effective date for the type of order filed.)

INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
- Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
 - Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
 - Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
 - An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
 - If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
 - If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
 - If an effective date later than specified above is requested, provide the date.

FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400 attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

DELEGATED AUTHORITY ORDER

I hereby authorize and designate Rosalie P. Clark, Chief, Regulations Development Bureau as the agency contact person who has authority to make decisions and answer questions regarding this regulation order.

A handwritten signature in cursive script, appearing to read "Linda S. McMahon".

LINDA S. McMAHON
Director

CERTIFICATE OF COMPLIANCE - Section 11346.1(e), Government Code

The Department of Social Services hereby certifies that it has complied with the provisions of Sections 11346.4 through 11346.8 inclusive of the Government Code, within 120 days of the effective date of the following emergency regulations which were filed with the Secretary of State on June 29, 1987, and which became effective on July 1, 1987.

Manual of Policy and Procedures, Division 63, Chapters 63-100, 63-400, and 63-500, Sections:

<u>Amended</u>	<u>Adopted</u>	<u>Repealed</u>
63-102	63-071	
63-402.2		
63-407.21		
63-407.22		
63-407.3		
63-407.5		
63-407.6		
63-408		
63-503.443 and .45		

These regulations were presented at public hearing on August 19, 1987. As a result of the public hearing the following sections have been changed.

<u>Amended</u>	<u>Adopted</u>	<u>Repealed</u>
63-402.2		
63-407.5		
63-407.6		
63-408		
63-503.443		


 LINDA S. McMAHON
 Director

10/28/87
 Date

Adopt Section 63-071 to read:

63-071 IMPLEMENTATION OF THE FOOD STAMP WORK REQUIREMENTS 63-071

The CWDs shall implement the revised provisions of these regulations effective July 1, 1987. The sections affected by these revisions are: 63-102p.(1)(C), 63-402.227, 63-407.21a., 63-407.221(c), 63-407.37, 63-407.51, 63-407.53, 63-407.54, 63-407.551, 63-407.57 and .571, 63-407.61, 63-407.62, 63-407.621(a) and (b), 63-407.621(c)(7), 63-407.622, 63-408, 63-408.11, 63-408.12, 63-408.13, 63-408.15, 63-408.21, 63-408.24, 63-408.41(e), (f) and (h), 63-408.6 and .61, 63-408.62, .621, .622 and .623, 63-503.443, and 63-503.45.

Authority Cited: Sections 10553, 10554, and 18902, Welfare and Institutions Code.

Reference: 7 CFR 272.1(g)(82).

Amend Section 63-102 to read:

63-102 DEFINITIONS (Continued)

63-102

p.(1) "Parental Control"

(A) (Continued)

(B) (Continued)

(C) For the purposes of determining failure to comply with the work requirements specified in Section 63-407.4, "parental control" as defined in this section shall apply to persons of any age.

(2) (Continued)

Authority Cited: Sections 10553, 10554, and 18902, Welfare and Institutions Code.

Reference: 7 CFR 273.1(d)(2).

Amend Section 63-402.2 to read:

63-402 HOUSEHOLD CONCEPT (Continued)

63-402

•2 Nonhousehold and Excluded Household Members

•21 Nonhousehold Members (Continued)

•22 Excluded Household Members (Continued)

•221 Ineligible Aliens (Continued)

•222 SSN Disqualified (Continued)

•223 Intentional Program Violation Disqualified
(Continued)

•224 Workfare Sanctioned (Continued)

•225 SSI Recipients (Continued)

•226 Students (Continued)

•227 Work Requirements Disqualified

Individuals disqualified for noncompliance with
the work requirements of Section 63-407.4 and
individuals specified in Section 63-408.242.

Authority Cited: Sections 10553, 10554, and 18902, Welfare and
Institutions Code.

Reference: 7 CFR 273.1(b)(2)(vii).

Amend MDP Section 63-407.21 to read:

63-407 WORK REGISTRATION REQUIREMENTS (Continued)

63-407

•2 Exemptions from Work Registration

•21 The following persons are exempt from the food stamp work registration requirement and shall not complete Form DE 8435 FS:

a. A person younger than 16 years of age or a person 60 years of age or older. If a child has his/her 16th birthday within a certification period, the child shall fulfill the work registration requirement as part of the next scheduled recertification process, unless the child qualifies for another exemption.

(1) A person age 16 or 17 who is not the head of the household, or who is attending school, or enrolled in an employment training program on at least a half-time basis is exempt.

Authority Cited: Sections 10553, 10554, and 18902, Welfare and Institutions Code.

Reference: 7 CFR 273.7(b)(1)(i).

Amend MPP Section 63-407.22 to read:

63-407 WORK REGISTRATION REQUIREMENTS (Continued)

63-407

.22 Loss of Work Registration Exemptions

.221 (Continued)

(a) (Continued)

(b) (Continued)

(c) If the change is reported by phone or through the mail, the CWD shall be responsible for providing the individual with a work registration form.

(1) The individual shall be responsible for returning the completed form to the CWD within 10 calendar days from either the date the form was handed to the household member reporting the change or the date the CWD mailed the form.

(2) If the individual fails to return the form, the CWD shall issue a notice of disqualification (DFA 377.10) stating that the individual or the household, if the individual is the principal work registrant as defined in Section 63-407.51, is being terminated, but that the termination can be avoided by returning the completed form.

Authority Cited: Sections 10553, 10554, and 18902 Welfare and Institutions Code.

Reference: 7 CFR 273.7(b)(2)(i).

Amend MPP Section 63-407.3, .5, and .6 to read:

63-407 WORK REGISTRATION REQUIREMENTS (Continued)

63-407

.3 CWD Requirements

.31 (Continued)

.32 (Continued)

.33 (Continued)

.34 (Continued)

.35 (Continued)

.36 (Continued)

.37 The CWD shall reimburse participants, including volunteers and applicants, for transportation, child care, or other costs that are reasonably necessary and directly related to participation up to \$25.00 per participant per month.

.4 (Continued)

.5 Failure to Comply

.51 For purposes of determining the consequences of a registrant's failure to comply with the work registration requirements of Section 63-407 and the voluntary quit provisions of Section 63-408, the CWD shall determine the principal work registrant. The principal work registrant is the household member (including excluded members) who has the greatest source of earned income in the two months prior to the month of violation.

.511 This provision applies only if the employment involves 20 hours or more per week or provides weekly earnings at least equivalent to the federal minimum wage multiplied by 20 hours.

.512 If no household member has the greatest source of earned income, the household shall designate the principal work registrant.

.513 No person of any age shall be considered the principal work registrant if living under the

parental control, as defined in Section 63-102(p), of another household member who is:

(a) Registered for work under the Food Stamp Program; or

(b) Exempt from food stamp work registration under Section 63-407.21c, e, or g.

.52 The ESA shall provide notification to the CWD when it is determined by the ESA that a work registrant has failed without good cause to comply with the requirements of Section 63-407.4. Such notification shall be in writing (Form DE 8863 FS) and shall be provided within five working days of the date such information becomes known to the ESA.

.53 When the CWD is informed by the ESA that a principal work registrant has refused or failed without good cause to comply with the requirements of Section 63-407.4, the entire household shall be ineligible to participate in the Food Stamp Program for the period specified in Section 63-407.56.

.54 If the CWD is informed that an individual other than the principal work registrant has refused or failed without good cause to comply with the requirements of Section 63-407.4, that individual shall be ineligible to participate in the Food Stamp Program for the period specified in Section 63-407.56.

.55 If the CWD is informed that a household member who is registered for work under any of the alternate programs specified in Sections 63-407.21c, e, or i, has refused or failed without good cause to comply with a work registration requirement, the CWD shall determine if the requirement is comparable to the food stamp requirements specified in Section 63-407.4.

.551 If the CWD determines that the work registration requirement is comparable, the individual or entire household shall be disqualified if the individual who committed the violation is the principal work registrant in accordance with Section 63-407.56. The household or individual shall be notified of the disqualification as specified in Section 63-407.54.

(a) An individual or household shall not be disqualified if the noncomplying member

becomes exempt in accordance with Section 63-407.21a, b, d, f, g, or h.

- .552 If the CWD determines that the work registration requirement is not comparable, the household shall not be disqualified. However, the noncomplying member shall lose his/her food stamp work registration exemption under Section 63-407.21c, e, or i and must register for work, if required to do so under Section 63-407.1.
- .56 The period of disqualification for a work registrant failing to comply with the requirements of Section 63-407.4, is as follows:
 - .561 If the work registrant fails to comply with any requirement of Section 63-407.4, provided eligibility cannot be reestablished pursuant to Section 63-407.6, the disqualification period is two months except as specified in .562 below;
 - .562 If the work registrant is the principal work registrant and fails to continue suitable employment as specified in Section 63-407.45 because of a voluntary quit without good cause, the disqualification period is three calendar months pursuant to Section 63-408.222.
- .57 Within 10 days of determining that the noncompliance was without good cause in accordance with Section 63-407.58, the CWD shall provide the individual or household with a Notice of Disqualification, (DFA 377.10). Such notification shall contain a description of the act of noncompliance, the proposed period of disqualification and shall specify that the individual or household may reapply at the end of the disqualification period. Information shall also be included describing the action which can be taken to end or avoid the sanction, and procedures contained in Section 63-407.6. The disqualification period shall begin with the first month following the expiration of the adverse notice period, unless a state hearing is requested. If a state hearing is requested, continued participation shall be in accordance with Section 63-804.6.
- .571 Each individual or household has a right to a state hearing to appeal a denial, termination or reduction of benefits due to a determination of nonexempt status, or an ESA determination of failure to comply with the work registration or

job search requirements. Individuals or households can appeal the ESA actions such as the job search category assigned, the number of job search contacts assigned, the ESA refusal to accept an action as a job search contact or refusal to make a finding of good cause. If a state hearing is scheduled, the CWD shall provide sufficient advance notice to permit the attendance of the ESA representative, if it is anticipated that such attendance will be necessary.

•58 Determining Good Cause (Continued)

•6 Ending Disqualification

•61 Following the end of the two-month disqualification period for noncompliance with the work registration and/or job search provisions prescribed in Sections 63-407.1 or 407.8, a disqualified individual or household may apply again to establish eligibility.

•62 If the individual or household is otherwise eligible, eligibility may be established or reestablished within a disqualification period as indicated below:

•621 For those households disqualified for noncompliance with the work registration provisions, eligibility may be reestablished during the disqualification period if the household is otherwise eligible and if the member who caused the disqualification:

(a) Becomes exempt in accordance with Section 63-407.21a, b, d, f, g, or h.

(b) Is no longer a member of the household:

(1) If the household member joins another household as the principal work registrant, the entire new household is ineligible for the remainder of the disqualification period.

(2) If the member joins another household where he/she is not the principal work registrant, the individual shall be considered an excluded household member for the remainder of the disqualification period.

(c) (Continued)

(1) (Continued)

(2) (Continued)

(3) (Continued)

(4) (Continued)

(5) (Continued)

(6) (Continued)

(7) If the member refused to comply with an employment and training assignment, the member shall comply with the assignment or another assignment. (Continued)

Authority Cited: Sections 10553, 10554, and 18902, Welfare and Institutions Code.

Reference: 7 CFR 273.7(d)(1)(ii)(A), 7 CFR 273.1(d)(2), 7 CFR 273.7(g)(1), 7 CFR 273.7(g)(2)(ii), and 7 CFR 273.7(h) and (h)(5).

Amend MPP Section 63-408 to read:

63-408 VOLUNTARY QUIT

63-408

No applicant or participating household shall be eligible for participation in the program when a principal work registrant has voluntarily quit employment without good cause as specified in this section. For the purpose of this section, employment shall mean 20 hours or more per week or weekly earnings equivalent to the federal minimum wage multiplied by 20 hours.

.1 Applicant Households

- .11 When a household files an application or reapplication, the CWD shall determine if the principal work registrant who is required to register for full-time work has quit a job without good cause either 60 days before filing an application or when last participating in the Food Stamp Program. The CWD shall process the application within ordinary time frames specified in Section 63-301 and shall not delay benefits pending a voluntary quit or good cause determination.

.111 (Continued)

- .12 If a determination of voluntary quit is established, the CWD shall then determine if the member is the principal work registrant as defined in Section 63-407.51.
- .13 Upon a determination that the principal work registrant voluntarily quit employment, the CWD shall determine if the voluntary quit was with good cause as defined in Section 63-408.4. If the voluntary quit was not for good cause, the household's application for participation shall be denied for a period 90 days starting from the date of quit. The household shall be advised of the reason for the denial and of its rights to reapply and/or request a state hearing.

.14 (Continued)

- .15 The CWD shall inform the applicant of the consequences of the principal work registrant quitting his/her job without good cause.

.2 Participating Households

- .21 When the CWD learns that a participating household has lost a source of earned income, the CWD shall determine

whether the principal work registrant voluntarily quit a job and whether there was good cause as defined in Section 63-408.4. Benefits shall not be delayed pending this determination.

•22 (Continued)

•23 (Continued)

•24 An individual who has been disqualified for quitting a job as the principal work registrant will carry the sanction with them him/her.

•241 If they he/she joins a new household as the principal work registrant, the new household will be ineligible for the remainder of the sanction period, unless the person who caused the disqualification ends it in accordance with Section 63-408.6.

•242 If he/she joins a new household where he/she is not the principal work registrant, the individual shall be considered an excluded household member for the remainder of the sanction period unless that individual ends the disqualification in accordance with Section 63-408.6.

•3 Exemptions from voluntary quit provisions. (Continued)

•4 Good cause. (Continued)

•41 (Continued)

(a) (Continued)

(b) (Continued)

(c) (Continued)

(d) (Continued)

(e) Acceptance by the principal work registrant of employment, or enrollment of at least half-time in any recognized school, training program or institution of higher education preparatory to seeking better jobs or employment, that requires the principal work registrant to leave employment;

(f) Acceptance by any other household member of employment or enrollment at least half-time in any

recognized school, training program or institution of higher education preparatory to seeking better jobs or employment in another county or state which requires the household to move and thereby requires the principal work registrant to leave employment;

(g) (Continued)

(h) Acceptance of a bona fide offer of employment of more than 20 hours a week or in which the weekly earnings are equivalent to the federal minimum wage multiplied by 20 hours which, because of circumstances beyond the control of the principal work registrant, subsequently either does not materialize or results in employment of less than 20 hours a week or weekly earnings of less than the federal minimum wage multiplied by 20 hours.

(i) (Continued)

(j) (Continued)

(k) (Continued)

•42 (Continued)

•5 (Continued)

•6 Ending a Voluntary Quit Disqualification

•61 Following the end of the disqualification period, a household may begin participating in the Program after reapplying and being determined eligible.

•62 Eligibility may be re-established during the disqualification period and the household shall, if otherwise eligible, be permitted to resume participation if the member who caused the disqualification:

•621 Secures new employment which is comparable in salary or hours to the job which was quit, or

•622 Leaves the household, or

•623 Becomes exempt from the work registration requirements other than the exemptions specified in Section 63-407.21c, e, or i.

Authority Cited: Sections 10553, 10554, and 18902, Welfare and Institutions Code.

Reference: 7 CFR 273.7(n), (1)(vi), and (5)(ii).

Amend Section 63-503.443 as follows:

63-503 DETERMINING HOUSEHOLD ELIGIBILITY AND BENEFIT LEVELS (Continued) 63-503

•4 Households with Special Circumstances (Continued)

•44 Treatment of Income and Resources of Excluded Members (Continued)

•443 Household Members Excluded for SSI Recipient or Ineligible Student Status or Noncompliance with Work Requirements

The eligibility and monthly allotment of any remaining household members of a household containing individuals excluded for being an SSI recipient, ~~or~~ ineligible student, ~~or~~ for noncompliance with the work requirements of Section 63-407.4, or those individuals specified in Section 63-408.242 shall be determined in accordance with the requirements for nonhousehold members as specified in Section 63-503.45.

Authority Cited: Sections 10553, 10554, and 18902, Welfare and Institutions Code.

Reference: 7 CFR 273.1(b)(2) and (vii); 7 CFR 273.7(g)(1); and 7 CFR 273.11(d).

Amend Section 63-503.45 as follows:

63-503 DETERMINING HOUSEHOLD ELIGIBILITY AND BENEFIT 63-503
LEVELS (Continued)

.4 Households with Special Circumstances (Continued)

.45 Nonhousehold Members

The income and resources of nonhousehold members as specified in Section 63-402.21 and the excluded household members specified in Sections 63-402.225, .226, and .227 shall not be considered available to the household with whom the individual resides. Cash payments from the nonhousehold member to the household shall be considered income under the normal income standards set in Section 63-502.1. Vendor payments, as defined in Section 63-502.2, shall be excluded as income. (Continued)

Authority Cited: Sections 10553, 10554, and 18902, Welfare and Institutions Code.

Reference: 7 CFR 273.1(b)(2) and (vii); 7 CFR 273.7(g)(1); and 7 CFR 273.11(d).

OFFICE OF ADMINISTRATIVE LAW CERTIFICATION OF APPROVAL

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Department of Social Services

OAL File No: 87-1029-01C



**LINDA STOCKDALE BREWER
DIRECTOR**

11-30-87

Date

FACE SHEET

87-1110-06 C
(See Instructions on Reverse)

RDB 0687-31

SUBMITTED FOR REVIEW

NOV 10 1987

OFFICE OF ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING

DEC 07 1987

Office of Administrative Law

For use of Office of Adm Law

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW
CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

Department of Social Services

(AGENCY)

John S. McHugh

AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date:

11/6/87

FILED

In the office of the Secretary of State
of the State of California

DEC 07 1987

At 4:37 o'clock P.M.

MARCH FONG EU, Secretary of State

By *John S. McHugh*
Deputy Secretary of State

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions)
Rosalie Clark, Chief Regulations Development Bureau 445-0313
2. Type of filing, (check one)
☐ 30-day Review ☐ Emergency ☒ Certificate of Compliance (Complete Part 4 below)
☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction
3. a. Specify California Administrative Code title and sections as follows:
Title MPP
SECTIONS ADOPTED: 63-068
SECTIONS AMENDED: 63-502.352(a)(1) and 63-503.254(a)
SECTIONS REPEALED: _____
b. The following sections listed in 3a contain modifications to the text originally made available to the public: _____
4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)
☐ prior to the emergency adoption
☒ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.
5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?
☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL: _____
6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?
☒ No ☐ Yes, if yes, give date statement was submitted to OAL: _____
7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)
☐ Fair Political Practices Commission (Include FPPC approval stamp) ☐ Building Standards Commission (Attach approval)
☐ State Fire Marshall (Attach approval) ☐ Department of Finance (Attach properly signed Std. 399)
☐ Other _____ (SPECIFY AGENCY)
8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER
July 31, 1987
b. DATE OF FINAL AGENCY ACTION
November 9, 1987
c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c))
N/A
9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)
a. ☐ Effective 30th day after filing with the Secretary of State.
b. ☒ Effective upon filing with the Secretary of State.
c. ☐ Effective on _____ as required or allowed by the following statute(s): _____
d. ☐ Effective on _____ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
e. ☐ Effective on _____ (Designate effective date *later than* the normal effective date for the type of order filed.)

INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
- Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
 - Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
 - Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
 - An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
 - If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
 - If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
 - If an effective date later than specified above is requested, provide the date.

FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- *Seven (7) copies of the regulations.* Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- *A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400* attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- *Complete rulemaking file, with index and sworn statement.* (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

DELEGATED AUTHORITY ORDER

I hereby authorize and designate Rosalie P. Clark, Chief, Regulations Development Bureau as the agency contact person who has authority to make decisions and answer questions regarding this regulation order.

A handwritten signature in cursive script, appearing to read "Linda S. McMahon".


LINDA S. McMAHON
Director

CERTIFICATE OF COMPLIANCE - Section 11346.1(e), Government Code

The Department of Social Services hereby certifies that it has complied with the provisions of Section 11346.4 through 11346.8 inclusive of the Government Code, within 120 days of the effective date of the following regulations which were filed with the Secretary of State on July 28, 1987, and which became effective on August 1, 1987.

Sections 63-068, 63-502.352(a) (1), 63-503.254(a), Manual of Policies and Procedures, Division 63.

No Amendments or repealers resulted from the public hearing held on September 16, 1987.



LINDA S. McMAHON
Director

11/6/87
Date

Adopt Section 63-068 to read:

63-068 IMPLEMENTATION OF ENERGY ASSISTANCE PAYMENTS 63-068

- .1 Sections 63-502.352(a) and 63-503.254 as amended herein shall become effective August 1, 1987.
- .2 Beginning August 1, 1987 CWDs shall implement the required program changes for all new applications.
- .3 The CWDs shall implement these required program changes for currently participating households at the household's request, at termination or recertification, whichever occurs first.
- .4 A determination of entitlement to a restoration of lost benefits shall be made either upon request of the household, or when the CWD becomes aware that a household was denied benefits or would have been eligible for a higher allotment, and implemented as follows:
 - .41 Any household that was denied benefits shall receive restored benefits back to October 1, 1986 or the date of application, whichever is later.
 - .42 Currently participating households shall receive benefits back to October 1, 1986 or the first month in which application of these provisions would have affected the household's benefits, whichever is later.

Authority Cited: Sections 10553, 10554, and 18904, Welfare and Institutions Code.

Reference: 7 CFR 272.1(g)(84).

Amend Section 63-502.352(a)(1) to read:

63-502 INCOME, EXCLUSIONS AND DEDUCTIONS (Continued) 63-502

•3 Income Deductions (Continued)

•35 Shelter Costs (Continued)

•352 Standard Utility Allowance

(a) The standard utility allowance (SUA) may be used in calculating shelter costs of those households which incur heating or cooling costs separate and apart from their rent or mortgage payments, including residents of rental housing who are billed on a monthly basis by their landlords for actual usage as determined through individual metering.

(1) The SUA shall also be made available to households receiving energy assistance ~~vendor~~ payments ~~but made under the Low Income Home Energy Assistance Act (LIHEAA) of 1981.~~ Households which receive energy assistance vendor payments made under a program other than the LIHEAA of 1981, are eligible for the SUA only if they ~~who~~ continue to incur out-of-pocket heating or cooling expenses during any month covered by the certification period. To determine if a household incurs out-of-pocket heating or cooling expenses in addition to the energy assistance vendor payments, the CWD shall prorate the energy assistance payments over the entire heating or cooling season the payment is intended to cover.

Authority Cited: Sections 10553, 10554, and 18904, Welfare and Institutions Code.

Reference: 7 CFR 273.9(d)(6)(ii) and 273.10(d)(6).

Amend Section 63-503.254(a) to read:

63-503 DETERMINING HOUSEHOLD ELIGIBILITY AND BENEFITS LEVELS 63-503
(Continued)

- 2 Determining Resources, Income and Deductions (Continued)
- 25 Determining Deductions For All Households (Continued)
- 254 Disallowed Expenses.

- a. An expense covered by an excluded reimbursement or vendor payment shall not be deductible except for energy assistance vendor payments made under the LIHEAA of 1981. For example, the portion of rent covered by excluded vendor payments shall not be calculated as part of the household's shelter cost. (Continued)

Authority Cited: Sections 10553, 10554, and 18904, Welfare and Institutions Code.

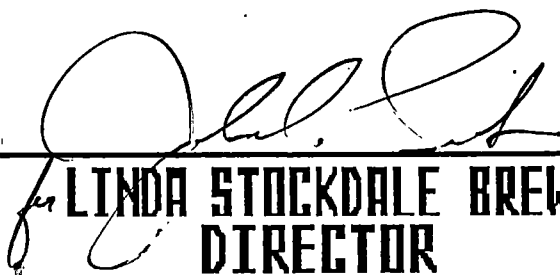
Reference: 7 CFR 273.10(d)(1)(i).

OFFICE OF ADMINISTRATIVE LAW CERTIFICATION OF APPROVAL

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Department of Social Services

OAL File No: 87-1110-06C


for **LINDA STOCKDALE BREWER**
DIRECTOR

12/7/97
Date

REGULAR

FACE SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

FILED
In the office of the Secretary of State
of the State of California

SUBMITTED FOR REVIEW

NOV 24 1987

OFFICE OF ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING

DEC 22 1987

Office of Administrative Law

DEPARTMENT OF SOCIAL SERVICES
(AGENCY)

AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date:

11/20/87

DEC 21 1987
At 4:31 o'clock P.M.
MARCH FONG EU, Secretary of State
By *[Signature]*
Deputy Secretary of State

For use of Office of Adm Law

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions)
Rosalie Clark, Chief Regulations Development Bureau 445-0313
TITLE TELEPHONE
2. Type of filing, (check one) ☒ 30-day Review ☐ Emergency ☐ Certificate of Compliance (Complete Part 4 below)
☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction
3. a. Specify California Administrative Code title and sections as follows:
Title MPP
SECTIONS ADOPTED: 11-700, 11-701, 11-702, 11-703, 11-704, 11-705, 11-706, 11-707, 11-708, 11-709, 11-710
SECTIONS AMENDED:
SECTIONS REPEALED:
- b. The following sections listed in 3a contain modifications to the text originally made available to the public: 11-702, 11706, 11-708, and 11-709
4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)
☐ prior to the emergency adoption
☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.
5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?
☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL:
6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?
☒ No ☐ Yes, if yes, give date statement was submitted to OAL
7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)
☐ Fair Political Practices Commission (Include FPPC approval stamp) ☐ Building Standards Commission (Attach approval)
☐ State Fire Marshall (Attach approval) ☐ Department of Finance (Attach properly signed Std. 399)
☐ Other _____ (SPECIFY AGENCY)
8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER
April 3, 1987
b. DATE OF FINAL AGENCY ACTION
November 20, 1987
c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c))
Sept. 28 to Oct. 19, 1987
9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)
a. ☐ Effective 30th day after filing with the Secretary of State.
b. ☒ Effective upon filing with the Secretary of State.
c. ☐ Effective on _____ as required or allowed by the following statute(s):
d. ☐ Effective on _____ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
e. ☐ Effective on _____ (Designate effective date *later than* the normal effective date for the type of order filed.)

REGISTER

INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
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- Complete rulemaking file, with index and sworn statement. (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

DELEGATED AUTHORITY ORDER

I hereby authorize and designate Rosalie P. Clark, Chief, Regulations Development Bureau as the agency contact person who has authority to make decisions and answer questions regarding this regulation order.

A handwritten signature in cursive script, appearing to read "Linda S. McMahon".

LINDA S. McMAHON
Director

Adopt MPP Chapter 11-700 to read:

11-700 Franchise Tax Board (FTB) Intercept Regulations 11-700

11-701 Definitions 11-701

When used in these regulations, unless the context otherwise indicates:

- (a) absent parent -- means any individual who is absent from the home and who is legally responsible for providing financial support for a dependent child.
- (b) affidavit -- is a sworn statement in writing made under oath or on affirmation before an authorized officer.
- (c) arrearages -- are unpaid child support payments for past periods owed by a parent who is obligated by court order to pay.
- (d) assignment of support rights -- is an AFDC eligibility requirement whereby all applicants/recipients must assign to the state all rights to support paid in their behalf or in behalf of a dependent child for whom assistance is sought or paid.
- (e) certify -- is to vouch formally for the accuracy of facts by a signed writing.
- (f) child support -- is a legally enforceable obligation assessed against an individual for the support of a dependent child.
- (g) custodial parent -- is the person with legal custody under a court order.
- (h) district attorney -- means the single organizational unit located in the office of the district attorney (County Family Support Division) in each California county charged with the responsibility for enforcement of support orders.
- (i) Franchise Tax Board (FTB) -- is the state government agency in California responsible for collecting state income taxes.
- (j) initiating state -- is the state in which a URESA proceeding is commenced and where the absent or custodial parent is located.

- (k) intercept -- means an amount of money taken from an obligated parent's state or federal income tax refund to satisfy a child support debt.
- (l) intercounty cases -- are those in which another California county is involved in the tax intercept either as the submitting county or the county where the child support order was issued.
- (m) Internal Revenue Service (IRS) -- is the federal government agency responsible for collecting federal income taxes.
- (n) interstate cases -- are those in which another state is involved in the tax intercept either as the submitting state or the state where the child support order was issued.
- (o) IV-D or Title IV-D -- of the Social Security Act (Sections 451, 452, 453, 454, 457, and 460) is that portion of the federal law establishing and prescribing the Child Support Enforcement Program.
- (p) obligation -- is the amount of money to be paid as support by the absent or custodial parent pursuant to the terms of the court order.
- (q) order -- is a direction of a magistrate, judge, or properly empowered administrative officer to a person, made or entered in writing.
- (r) registration -- is a procedure set up by state law to adopt a judgment of a foreign jurisdiction as if it were from a California court. This procedure is used to enforce the foreign judgment in California.
- (s) responding state -- is a state receiving and acting on an interstate child support case.
- (t) spousal support -- is a legally enforceable obligation assessed against an individual for the support of a spouse or former spouse who is living with a child or children for whom the individual also owes support.
- (u) Title IV-D -- see IV-D.
- (v) Uniform Reciprocal Enforcement of Support Act (URESA) -- is a uniform law that sets forth reciprocal legislation concerning the enforcement of support between the states.

- .1 Annually, each district attorney shall submit to SDSS a list of all eligible cases, except those eligible cases in which the district attorney is attempting to collect through other enforcement actions. Eligible cases are to be submitted in a manner and timeframe prescribed by SDSS.
- .2 The district attorney must document the case files of those cases exempted in .1 above to support their exemption.

.1 Eligible cases shall meet the following minimum requirements:

.11 The case shall contain a child support order established by a court of competent jurisdiction. Orders originating outside California must be registered by the submitting district attorney.

.12 IV-D welfare and nonwelfare cases are eligible.

.121 Welfare cases shall include an assignment of support rights.

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.122 Nonwelfare IV-D cases do not require an assignment of rights; however, the district attorney will obtain a copy of the payment record and/or an affidavit signed by the custodial parent attesting to the amount of support owed.

.13 The case shall contain a delinquent child support obligation of at least \$100.

.131 Welfare and nonwelfare arrearages cannot be combined for a \$100 minimum arrearage.

.132 The arrearage for welfare IV-D cases shall include all monies owed to the certifying district attorney.

.133 The arrearage for nonwelfare IV-D cases shall include overdue child support and any other related costs included in the court order.

.1 District attorneys must submit all URESA cases meeting the eligibility requirements of Section 11-703.

.11 Intercounty Cases

.111 The URESA responding jurisdiction shall not submit eligible cases.

.112 The URESA initiating jurisdiction shall submit all eligible cases.

.12 Interstate Cases

.121 The URESA responding jurisdiction shall submit all eligible cases.

.122 The URESA initiating jurisdiction may submit all eligible cases if there is reason to believe the absent parent may file a California State Income Tax Return.

.2 If an intercent is received, the submitting jurisdiction shall notify the other jurisdiction of the collection.

- .1 District attorneys shall ensure that requests for tax refund intercepts are submitted properly and contain correct information identifying the absent parent and the amount of delinquency.
- .2 District attorneys shall complete and sign a statement certifying under the penalty of perjury the accuracy of the information submitted.

- .1 Absent parents will be notified by SDSS prior to intercept that their name will be referred for FTB tax interception.

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- .11 The Child Support Warning Notice (DPS 236) will contain, at a minimum, the following information:
- (a.) The certified arrearage amount submitted by the district attorney to the Franchise Tax Board.
 - (b.) The name, address, and phone number of the county submitting the individual to be intercepted.
 - (c.) The absent parent's right to contest the referral and request an administrative review within 30 days from the date of notice (see Section 11-709 for complaint procedure).
 - (d.) Possible reasons for disagreeing with the action such as no support judgment has been entered against you (absent parent), the support amount(s) shown as past due is incorrect.

- .2 If SDSS does not have an address for a submission, the notice will be sent to the submitting district attorney for manual addressing. The district attorney shall return the notice to SDSS as soon as possible for mailing.

- .21 If a district attorney does not have any address information for an absent parent, the district attorney shall delete the absent parent's name from the intercept submission list.

- .3 In cases in which the intercept warning notices are returned as undeliverable by the post office, the district attorney shall attempt to identify a more current address and return the notice to SDSS for mailing.

- .31 If a more current address is not available, the notice and envelope shall be placed in the case file and the file annotated to document the attempt to mail.

- .32 Notices that are undeliverable due to clerical or typographical errors shall be corrected by the district attorney and returned to SDSS for remailing.

- .33 Cases in which all attempts to notify the absent parent have been made but are unsuccessful shall not be deleted from the intercept process.

- .1 District attorneys shall update the arrearage amounts submitted to FIB when county information indicates that an erroneous or an excess amount will be intercepted if county action is not taken.
- .2 Updates shall be submitted in a manner prescribed by SDSS.

- .1 Intercepted refunds are forwarded to the district attorneys by SDSS. When two or more counties have submitted arrearages for the same taxpayer, the intercepted funds will be distributed first to the district attorneys with welfare arrearages with the funds going to the county with the largest arrearage first and then to the counties with lesser arrearages until all welfare arrears are satisfied. Next, the funds are distributed to the district attorneys with certified nonwelfare arrearages with the funds being applied to the largest debt first.
- .2 District attorneys shall apply the collections to the original certified arrearage.
- .3 Welfare arrearages shall be satisfied before intercept collections are applied to nonwelfare arrearages.
- .4 If the amount collected and forwarded to a district attorney exceeds the original certified arrearage, that district attorney shall research the statewide master file for additional certified arrearages in other counties.
 - .41 If an additional certified arrearage exists in another county, the county shall confirm the obligation, notify the absent parent, and transfer the money to the other counties.
 - .42 If there are no additional certified arrearages but the absent parent has accumulated an additional uncertified arrearage, the district attorney may negotiate with the absent parent to apply excess amounts intercepted to the uncertified arrearage. If negotiations with the absent parent fail, the district attorney may take further legal action as allowable by law to retain and apply the funds to the uncertified arrearage.

.1 If an absent parent challenges an intercept submission within 30 days after receipt of the "Child Support Warning Notice" (DPS 236) or within 15 days after receipt of the "Offset Notice" (DPS 245), the submitting district attorney shall attempt to resolve the dispute.

.2 The submitting district attorney shall first complete an informal review to attempt to resolve the complaint. The informal review procedure is as follows:

.21 The district attorney shall:

.211 Review all necessary legal documents and proof of payment from the absent parent.

.212 If an intercept notice has been received, attempt to obtain a copy of the notice from the absent parent.

.213 Audit its records and report the findings to the absent parent in writing. Written findings shall inform the absent parent of the right to a formal review as provided in Section 11-709.3.

.214 Document case records with all actions and findings of such audit.

.215 If an error was detected, the district attorney shall:

a) Correct all records, accounts receivable, and automated systems.

b) Submit an update to FTR within five working days.

c) If a tax refund intercept has already been made, the district attorney shall promptly return any excess money intercept to the absent parent (see Section 11-710, Refunds of Excess Intercepts).

.3 If the dispute was not resolved by the informal review, the submitting district attorney must conduct a formal administrative review. The administrative review procedures are as follows:

.31 The district attorney shall:

- .311 Provide the absent parent with a written notice for requesting a formal administrative review. The notice shall be provided by SSSS. District attorneys may substitute their own upon approval by SSSS.
- .312 Upon receipt of the request, notify the absent parent in both AFDC and non-AFDC cases, and also the custodial parent in non-AFDC cases, of the time and place where the review will be conducted in the county. The review may be done either in person or by telephone, if requested by the absent parent.
- .313 Consider all new information and documentation to determine if deletions or modifications are to be made.
- .314 Report deletions or downward modifications necessary as a result of an administrative review to FTB using the standard update format and mailed no later than one day after the decision is made.
- .315 Notify the absent parent of the results of the formal review in writing. Promptly return any erroneously intercepted money to the absent parent (see Section 11-710, Refunds of Excess Intercepts).

.4 Interstate cases

- .41 "Interstate" cases are those in which another state is involved in the tax intercept.
- .42 The submitting California district attorney's office shall first attempt to resolve complaints on interstate cases following the procedures outlined in .1 and .2 above.
- .43 If the California district attorney is unable to resolve the complaint and/or the absent parent requests an administrative review in the other state, the California district attorney shall transfer the case using the following procedures:
 - .431 The California district attorney shall:
 - (a) Notify the other state of the request for review using an approved SSSS form.

(b) Provide the other state with the following information within ten working days of the request:

- (1) Copy of the order and any modifications.
- (2) Copy of the payment record or the custodial parent's affidavit.
- (3) Custodial parent's address.
- (4) Evidence of assignment or nonwelfare application.
- (5) The issues of the review, including the absent parent's position and the district attorney's position.
- (6) The certified arrearage (not the current arrearage). If there are cumulative orders which serve as the basis for the submission, it should be clearly indicated that the former state need only verify a portion of the amount submitted for intercept.

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.432 The other state will be responsible for:

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(a) Notifying the absent parent in both AFDC/FC and non-AFDC cases (and also the custodial parent in non-AFDC cases) of the time and the place of the review.

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(b) Conducting the review.

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(c) Making a decision within 45 days of receipt of the California district attorney notice and case information.

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(d) Notifying the submitting California district attorney of its decision.

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.433 The submitting California district attorney shall be bound by the decision of the state conducting the review.

.44 If an intercept has occurred, the submitting California district attorney shall promptly refund any excess money

intercepted to the absent parent (see Section 11-710,
Refunds of Excess Intercepts).

- .5 If the administrative review process fails to resolve the dispute, the absent parent may take further legal action as allowed by law.

- .1 If there are no additional certified or uncertified arrearages, district attorneys shall refund excess monies intercepted to the absent parent within fifteen working days from the day the excess intercept was identified, regardless of whether or not the district attorney has received the intercepted funds.
- .2 When excess intercepted FTR monies which are refunded to the absent parent by a district attorney are returned by the post office as undeliverable, the monies shall be retained by the district attorney and shall not be returned to FTR.
- .3 District attorneys shall research available county records for another address and remail the refund if another address is available.

Authority Cited: Sections 10553 and 11475, Welfare and Institutions Code.

Reference: Sections 11475 and ~~11475.9~~⁹, Welfare and Institutions Code; Sections 708.730(c), 708.770, 1012, 1013, and 1690(a), Code of Civil Procedure⁸; Section 12419.5, Government Code; 45 CFR 232.11, 45 CFR 302.51(b), 302.51(b)(4) and (5), 302.52(b), 302.70(b), 302.70(3), ~~302.70(33)~~⁸, 45 CFR 303.2, 303.2(h), 303.6, 303.6(d), 303.7, 303.7(a)(4) and (5), 303.72(f)(3) and (4), 303.72(q), 303.72(h)(3) and (6), 303.102, 303.102(a)(1), 303.102(a)(2), 303.102(b) and (b)(2), 303.102(d), 303.102(e), 303.102(e)(1) and (2), 303.102(q), 303.102(g)(iii), 303.102(g)(3), and 303.102(h).
^

OFFICE OF ADMINISTRATIVE LAW CERTIFICATION OF APPROVAL

FILED
In the office of the Secretary of State
of the State of California

DEC 21 1987
At 4:31 o'clock P.M.
MARCH FONG EU, Secretary of State
By [Signature]
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Department of Social Services

DAL File No: 87-1124-03

[Signature]
LINDA STOCKDALE BREWER
DIRECTOR

12-22-87
Date

FACE SHEET

87-1123-03
(See Instructions on Reverse)

SUBMITTED FOR REVIEW

NOV 23 1987

OFFICE OF ADMINISTRATIVE LAW
ENDORSED

APPROVED FOR FILING

DEC 22 1987

Office of Administrative Law

For use of Office of Adm Law

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW
CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

Department of Social Services

(AGENCY)

AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: October 23, 1987

RDB #0786-30

FILED

In the office of the Secretary of State
of the State of California

DEC 21 1987

At 4:31 o'clock P.M.

MARCH FONG EU, Secretary of State

By [Signature]
Deputy Secretary of State

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions)
Mrs. Rosalie Clark Chief, Regulations Development Bureau 445-0313
2. Type of filing, (check one) ☒ 30-day Review ☐ Emergency ☐ Certificate of Compliance (Complete Part 4 below)
☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction
3. a. Specify California Administrative Code title and sections as follows:
Title 22
SECTIONS ADOPTED: 80024, 87024, 87424
SECTIONS AMENDED: 80018, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 40, 41, 61; 84027; 87025, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35; 87402, 08, 14, 20
SECTIONS REPEALED:
b. The following sections listed in 3a contain modifications to the text originally made available to the public: 80024, 87424
4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)
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November 28, 1986
b. DATE OF FINAL AGENCY ACTION
October 23, 1987
c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c))
August 31 -- September 16, 1987
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a. ☒ Effective 30th day after filing with the Secretary of State.
b. ☐ Effective upon filing with the Secretary of State.
c. ☐ Effective on _____ as required or allowed by the following statute(s): _____
d. ☐ Effective on _____ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
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A handwritten signature in cursive script, appearing to read "Linda S. McMahon".

LINDA S. McMAHON
Director

1) Amend Section 80018 to read:

80018 APPLICATION FOR LICENSE

80018

- (a) Any adult, firm, partnership, association, corporation, county, city, public agency or other governmental entity desiring to obtain a license shall file with the licensing agency a verified application on forms furnished by the licensing agency.
- (b) The applicant/licensee shall cooperate with the licensing agency in providing verification and/or documentation as requested by the licensing agency.
- (c) The application and supporting documents shall contain the following:
 - (1) Name or proposed name and address of facility.
 - (2) through (12) (Continued)
 - (13) The bonding affidavit specified in Section ~~80025(a)~~ 80026(a).
 - (14) A health screening report on the applicant as specified in Section 80065(g).
 - (15) The fee for processing the application or renewal by the requested capacity as specified in Section 80024.
 - (156) Such other information as may be required pursuant to Section 1520(f) of the Health and Safety Code.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1520, 1522, 1523, 1528, 1531, and 1560, Health and Safety Code.

2) Adopt new Section 80024; and renumber existing Sections 80024, 80025, 80026, 80027, and 80028 to 80025, 80026, 80027, 80028, and 80029 respectively to read:

80024 APPLICATION/RENEWAL PROCESSING FEES

80024

(a) Except for residential facilities operated by public agencies, and adult day care facilities, an applicant or a licensee shall be charged a fee for processing the application or renewal.

(b) A fee shall be charged at the time of initial and renewal application.

(1) The fee charged at initial application shall be according to requested capacity as follows:

<u>Capacity</u>	<u>Original Application</u>
<u>1 - 6</u>	<u>\$100</u>
<u>7 - 15</u>	<u>\$150</u>
<u>16 - 49</u>	<u>\$200</u>
<u>50 +</u>	<u>\$250</u>

(2) The fee charged at renewal application shall be according to existing licensed capacity unless the licensee requests a lower or higher capacity. The fee schedule shall be as follows:

<u>Capacity</u>	<u>Renewal Application</u>
<u>1 - 6</u>	<u>\$100</u>
<u>7 - 15</u>	<u>\$150</u>
<u>16 - 49</u>	<u>\$200</u>
<u>50 +</u>	<u>\$250</u>

(c) No additional fee shall be charged when the licensee requests an increase in capacity during a licensing period.

(d) When a licensee moves a facility from one location to another, the application/renewal processing fee shall be as follows:

<u>Capacity</u>	<u>Relocation</u>
<u>1 - 6</u>	<u>\$50</u>
<u>7 - 15</u>	<u>\$75</u>
<u>16 - 49</u>	<u>\$100</u>
<u>50 +</u>	<u>\$125</u>

- (1) To receive the reduced fee the following shall apply:
- (A) The licensee shall have notified the licensing agency before actually relocating the facility.
 - (B) The categorical type of facility shall remain the same when relocating the facility.
 - (C) The fee shall be by requested capacity at the new location.
- (e) The application/renewal processing fee shall be nonrefundable.

800245	WAIVERS AND EXCEPTIONS (Continued)	800245
800256	BONDING (Continued)	800256
800267	SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY, AND VALUABLES (Continued)	800267
800278	INITIAL APPLICATION REVIEW (Continued)	800278
800289	CAPACITY DETERMINATION (Continued)	800289

Authority Cited: Sections 1523, 1524, and 1530, Health and Safety Code.

Reference: Sections 1523 and 1524, Health and Safety Code.

3) Renumber Sections 80029, 80030, and 80031 to 80030, 80031, and 80032 respectively; and amend new Section 80030 to read:

8002930 WITHDRAWAL OF APPLICATION

8002930

(a) An applicant shall have the right to withdraw an application for an initial or renewal license.

(1) Such withdrawal shall be in writing.

~~(b)~~ (A) Health and Safety Code Section 1553 provides in part:

The licensing agency shall not be deprived of its authority to institute or continue a proceeding against the applicant for the denial of the license upon any ground provided by law, or to enter an order denying the license upon any such ground, unless it has consented in writing to such withdrawal.

(2) The fee for processing the initial or renewal application shall be forfeited.

800301 PROVISIONAL LICENSE (Continued)
800312 ISSUANCE OF LICENSE (Continued)

800301
800312

Authority Cited: Sections 1523, 1530, and 1553, Health and Safety Code.

Reference: Sections 1520, 1523, 1524, 1528, and 1553, Health and Safety Code.

4) Renumber Section 80032 to 80033 and amend new Section 80033 to read:

800323 TERM OF AN INITIAL OR RENEWAL LICENSE

800323

(a) Except as provided in Section 800301, an initial license shall expire one year from the date of issue.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1524, 1525, and 1529, Health and Safety Code.

5) Renumber Sections 80033 to 80034 and amend new Section 80034 to read:

800334 APPLICATION FOR RENEWAL OF A LICENSE

800334

(a) An application for the renewal of a license shall be filed on a form provided by the licensing agency not less than thirty (30) days prior to the license expiration date or at the time of initial application.

~~(1) Health and Safety Code Section 1524 provides that failure to make application for renewal within the prescribed time limit shall result in expiration of the license and the home shall be unlicensed.~~

(b) The renewal processing fee shall be submitted with the application for renewal as specified in Section 80024.

(bc) The renewal license shall be granted if a licensee files a renewal application within the time specified in (a) above unless the application has been denied, as specified in Section 80041.

(ed) Pending the issuance of a renewal license pursuant to (bc) above, the current license shall remain in effect.

Authority Cited: Sections 1523 and 1530, Health and Safety Code.

Reference: Sections 1520, 1523, 1524, 1525, and 1528, Health and Safety Code.

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6) Renumber Section 80034 to 80035 and amend new Section 80035 to read:

800345 SUBMISSION OF NEW APPLICATION

800345

(a) (Continued)

(b) A new application as required by Section 80018 shall be filed whenever an applicant fails to complete a new application within the time limit required by Section 800278(a) if the applicant chooses to continue the application process.

(c) A new application as required by Section 80018 shall be filed whenever a licensee fails to file a renewal application within the time limit required by Section 800334(a).

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1520, 1523, 1528, and 1531, Health and Safety Code.

7) Amend Section 80040 to read:

Article 4. ADMINISTRATIVE ACTIONS

80040 DENIAL OF INITIAL LICENSE

80040

- (a) Except as specified in Section 80030~~1~~, which provides for issuance of a provisional license based upon substantial compliance and urgent need, the licensing agency shall deny an application for an initial license if it is determined that the applicant is not in compliance with applicable law and regulation.
- (b) (Continued)
- (c) If the application for an initial license is denied, the application processing fee shall be forfeited.
- (ed) An applicant shall have the right to appeal the denial of the application pursuant to Health and Safety Code Section 1526.
- (~~de~~) Notwithstanding any appeal action, the facility is unlicensed and shall not operate pending adoption by the director of a decision on the denial action.

Authority Cited: Sections 1523 and 1530, Health and Safety Code.

Reference: Sections 1520, 1523, 1525, 1526, and 1528, Health and Safety Code.

8) Amend Section 80041 to read:

80041 DENIAL OF A RENEWAL LICENSE

80041

(a) The licensing agency shall have the authority to deny an application for a renewal license under the following circumstances:

(1) (Continued)

(2) (Continued)

(3) (Continued)

(4) The licensee refuses or fails to pay the renewal processing fee as specified in Section 80024(b)(2).

(b) If the application for a renewal license is denied, the licensing agency shall mail the licensee a written notice of denial.

(1) (Continued)

(c) If the application for a renewal license is denied, the renewal processing fee shall be forfeited.

(~~e~~d) (Continued)

(~~d~~e) (Continued)

(~~e~~f) (Continued)

Authority Cited: Sections 1523 and 1530, Health and Safety Code.

Reference: Sections 1520, 1523, 1524, 1525, 1526, and 1528, Health and Safety Code.

9) Amend Section 80061 to read:

Article 6. CONTINUING REQUIREMENTS

80061 REPORTING REQUIREMENTS

80061

(a) (Continued)

(b) (Continued)

(c) The items below shall be reported to the licensing agency within 10 working days following the occurrence.

(1) The organizational changes specified in Section 80034~~5~~(a)(2).

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1520, and 1531, Health and Safety Code.

10) Renumber Section 84026 to 84027 to read:

840267 SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY 840267
 AND VALUABLES (Continued)

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501 and 1531, Health and Safety Code.

11) Adopt new Section 87024 to read:

87024 APPLICATION/RENEWAL PROCESSING FEE 87024

(a) No application/renewal processing fee shall be charged to
foster family homes.

Authority Cited: Sections 1523 and 1530, Health and Safety Code.

Reference: Sections 1523 and 1524, Health and Safety Code.

12) Renumber Sections 87024, 87025, 87026, 87027, 87028, 87029, and 87030 to 87025, 87026, 87027, 87028, 87029, 87030, and 87031 respectively; and amend new Section 87031 to read:

87024 <u>5</u>	WAIVERS AND EXCEPTIONS (Continued)	87024 <u>5</u>
87025 <u>6</u>	BONDING (Continued)	87025 <u>6</u>
87026 <u>7</u>	SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY, AND VALUABLES (Continued)	87026 <u>7</u>
87027 <u>8</u>	APPLICATION REVIEW (Continued)	87027 <u>8</u>
87028 <u>9</u>	CAPACITY DETERMINATION (Continued)	87028 <u>9</u>
87029 <u>30</u>	WITHDRAWAL OF APPLICATION (Continued)	87029 <u>30</u>
87030 <u>1</u>	PROVISIONAL LICENSE (Continued)	87030 <u>1</u>

(a) The licensing agency shall have the authority to issue a provisional license to an applicant, pending action under Sections 870312 or 87040 on a completed application for an initial license, if it determines that all of the following circumstances exist:

Authority Cited: Sections 1530 and 1530.5, Health and Safety Code.

Reference: Section 1525.5, Health and Safety Code.

13) Renumber Sections 87031, 87032, 87033, and 87034 to 87032, 87033, 87034, and 87035 respectively; and amend new Section 87035 to read:

8703 <u>1</u> <u>2</u>	ISSUANCE OF LICENSE (Continued)	8703 <u>1</u> <u>2</u>
8703 <u>2</u> <u>3</u>	TERM OF AN INITIAL OR RENEWAL LICENSE (Continued)	8703 <u>2</u> <u>3</u>
8703 <u>3</u> <u>4</u>	APPLICATION FOR RENEWAL OF LICENSE (Continued)	8703 <u>3</u> <u>4</u>
8703 <u>4</u> <u>5</u>	SUBMISSION OF NEW APPLICATION	8703 <u>4</u> <u>5</u>

(a) (Continued)

(b) An applicant shall file a new application whenever an applicant fails to complete an application within the time required by Section 870278(b) if the applicant chooses to continue to the application process.

(c) A licensee shall file a new application whenever a licensee fails to file a renewal application within the time limit required by Section 870334(a).

Authority Cited: Sections 1530 and 1530.5, Health and Safety Code.

Reference: Sections 1501, 1520, and 1531, Health and Safety Code.

14) Amend Section 87402 to read:

87402 APPLICATION FOR LICENSE

87402

(a) (Continued)

(1) through (14) (Continued)

(15) The fee for processing the application or renewal for the requested capacity as specified in Section 87424.

(156) Such other information as may be required by the licensing agency for the proper administration and enforcement of the licensing law and regulations.

Authority Cited: Sections 1569.18 and 1569.30, Health and Safety Code.

Reference: Sections 1569.1, 1569.2, 1569.10, 1569.11, 1569.13, 1569.15, 1569.18, 1569.20, 1569.30, and 1569.31, Health and Safety Code.

15) Amend Section 87408 to read:

87408 WITHDRAWAL OF APPLICATION

87408

(a) The applicant may withdraw an application for an initial or renewal license. However, unless the licensing agency consents in writing to such withdrawal, the Department or licensing agency shall not be deprived of its authority to institute or continue a proceeding against the applicant for the denial of the license upon any ground provided by law or to enter an order denying the license upon any such ground.

(b) The fee for processing the initial or renewal application shall be forfeited.

Authority Cited: Sections 1569.18 and 1569.30, Health and Safety Code.

Reference: Sections 1569.18, 1569.20, 1569.22, 1569.30, 1569.50, 1569.51, and 1569.52, Health and Safety Code.

16) Amend Section 87414 to read:

87414 DENIAL OF INITIAL LICENSE

87414

- (a) Except as specified in Section 87412(a), which provides that the applicant may be issued a provisional license based upon substantial compliance and immediate need, the licensing agency shall deny an application for an initial license if it is determined that the applicant is not in compliance with applicable law and regulations.
- (b) If the application for an initial license is denied, the application renewal processing fee shall be forfeited.
- (bc) If the application for an initial license is denied, the licensing agency shall send a written notice of denial by certified mail. The notification shall inform the applicant of the denial; set forth the reasons for the denial; and advise the applicant of the right to appeal.
- (ed) An applicant may appeal the denial of the application by sending a written notice of appeal to the licensing agency within 15 days of the postmark date of the denial notice.
- (de) The licensing agency shall, upon receipt of the notice of appeal, advise the applicant in writing of the appeal procedure.
- (ef) The proceedings to review such denial shall be conducted pursuant to the provisions of Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2 of the Government Code.

Authority Cited: Sections 1569.18 and 1569.30, Health and Safety Code.

Reference: Sections 1569.1, 1569.18, 1569.21, and 1569.30, Health and Safety Code.

17) Amend Section 87420 to read:

87420 DENIAL OF A RENEWAL LICENSE

87420

- (a) The licensing agency shall deny an application for a renewal license when the license is not in substantial compliance, as defined in Section 870100(a)(43), with applicable law or regulations at the time of the renewal visit.
- (b) The licensing agency shall deny the renewal application when failure to substantially comply with licensing requirements has resulted in the Department's action to suspend or revoke the license or to seek other remedies as provided by law.
- (c) The licensing agency shall deny the renewal application when the licensee refuses or has failed to pay the application/renewal processing fee as specified in Section 87424(b)(2).
- (ed) If the application for a renewal license is denied, the licensing agency shall send the licensee a written notice of denial by certified mail. The notification shall inform the licensee of the denial and set forth the reasons for denial.
- (e) If the application for a renewal license is denied, the application/renewal processing fee shall be forfeited.
- (df) The licensee may appeal the denial as provided in Section 1526 of the Health and Safety Code within fifteen (15) days after the certified mailing of the denial notice. Proceedings to review the denial shall be conducted pursuant to the provisions of Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2 of the Government Code.

Authority Cited: Sections 1569.18 and 1569.30, Health and Safety Code.

Reference: Sections 1569.15, 1569.18, 1569.19, 1569.20, 1569.22, 1569.30, 1569.50, 1569.51, and 1569.52, Health and Safety Code.

18) Adopt new Section 87424 to read:

87424 APPLICATION/RENEWAL PROCESSING FEES

87424

(a) Except for facilities operated by public agencies, an applicant or a licensee shall be charged a fee for processing the application or renewal.

(b) The fee shall be charged at the time of initial and renewal application.

(1) The fee charged at initial application shall be according to requested capacity as follows:

<u>Capacity</u>	<u>Original Application</u>
<u>1 - 6</u>	<u>\$100</u>
<u>7 - 15</u>	<u>\$150</u>
<u>16 - 49</u>	<u>\$200</u>
<u>50 +</u>	<u>\$250</u>

(2) The fee charged at renewal application shall be according to existing licensed capacity unless the licensee requests a lower or higher capacity. The fee schedule shall be as follows:

<u>Capacity</u>	<u>Renewal Application</u>
<u>1 - 6</u>	<u>\$100</u>
<u>7 - 15</u>	<u>\$150</u>
<u>16 - 49</u>	<u>\$200</u>
<u>50 +</u>	<u>\$250</u>

(c) No additional fee shall be charged when the licensee requests an increase in capacity during a licensing period.

(d) When a licensee moves a facility from one location to another, the application/renewal processing fee shall be as follows:

<u>Capacity</u>	<u>Relocation</u>
<u>1 - 6</u>	<u>\$ 50</u>
<u>7 - 15</u>	<u>\$ 75</u>
<u>16 - 49</u>	<u>\$100</u>
<u>50 +</u>	<u>\$125</u>

(1) To receive the reduced fee the following shall apply:

- (A) The licensee shall have notified the licensing agency before actually relocating the facility.
- (B) The categorical type of facility shall remain the same when relocating the facility.
- (C) The fee shall be by requested capacity at the new location.

(e) The application/renewal processing fee shall be nonrefundable.

Authority Cited: Sections 1569.18 and 1569.30, Health and Safety Code.

Reference: Sections 1569.18 and 1569.19, Health and Safety Code.

OFFICE OF ADMINISTRATIVE LAW CERTIFICATION OF APPROVAL

FILED

In the office of the Secretary of State
of the State of California

DEC 21 1987

At 4:31 o'clock P.M.

MARCH FONG EU, Secretary of State

By *John Bates*
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Department of Social Services

DAL File No: 87-1123-03

Linda Stockdale Brewer
LINDA STOCKDALE BREWER
DIRECTOR

12-18-87

Date

FACE SHEET

SUBMITTED FOR REVIEW

NOV 24 1987

OFFICE OF ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING

DEC 22 1987

Office of Administrative Law

For use of Office of Adm Law

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW
CERTIFICATION: I hereby certify that the regulations
attached are true and correct copies of regulations
adopted, amended or repealed by this agency
and that the information specified on this Face
Sheet is true and correct.

DEPARTMENT OF SOCIAL SERVICES

(AGENCY)

Paul S. McHugh

AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date:

11/30/87

FILED

In the office of the Secretary of State
of the State of California

DEC 21 1987

At 4:31 o'clock P.M.

MARCH FONG EU, Secretary of State

By *John Bates*
Deputy Secretary of State

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING
(See instructions)
Rosalie Clark, Chief Regulations Development Bureau 445-0313
2. Type of filing, (check one) ☒ 30-day Review ☐ Emergency ☐ Certificate of Compliance
☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction
3. a. Specify California Administrative Code title and sections as follows:
Title MPP
SECTIONS ADOPTED: 63-070
SECTIONS AMENDED: 63-301.541, 63-504.324, 63-504.46, and 63-505.1
SECTIONS REPEALED: _____
b. The following sections listed in 3a contain modifications to the text originally made available to the public: N/A
4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)
☐ prior to the emergency adoption
☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.
5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?
☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL: _____
6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?
☒ No ☐ Yes, if yes, give date statement was submitted to OAL: _____
7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)
☐ Fair Political Practices Commission (Include FPPC approval stamp) ☐ Building Standards Commission (Attach approval)
☐ State Fire Marshall (Attach approval) ☐ Department of Finance (Attach properly signed Std. 399)
☐ Other _____ (SPECIFY AGENCY)
8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER
July 31, 1987
b. DATE OF FINAL AGENCY ACTION
November 30, 1987
c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c))
N/A
9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)
a. ☐ Effective 30th day after filing with the Secretary of State.
b. ☐ Effective upon filing with the Secretary of State.
c. ☐ Effective on _____ as required or allowed by the following statute(s): _____
d. ☒ Effective on 1/1/88 (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
e. ☐ Effective on _____ (Designate effective date *later than* the normal effective date for the type of order filed.)

INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that ~~at least one~~ Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
- Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
 - Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
 - Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
 - An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
 - If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
 - If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
 - If an effective date later than specified above is requested, provide the date.

FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400 attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

DELEGATED AUTHORITY ORDER

I hereby authorize and designate Rosalie P. Clark, Chief, Regulations Development Bureau as the agency contact person who has authority to make decisions and answer questions regarding this regulation order.

A handwritten signature in cursive script, appearing to read "Linda S. McMahon".

LINDA S. McMAHON
Director

Memorandum

To : Linda Hurdle Stockdale Brewer, Director
Office of Administrative Law

Date : November 18, 1987

Subject: RDB#0687-33: CA 7
Completeness Criteria;
Federal QC Review; and
Social Security COLA

From : **Department of Social Services**

We are requesting an early effective date of January 1, 1988 for the departmental regulations referenced above.

The State is required to make appropriate adjustments to allotments of households receiving Social Security benefits by the March, 1988 allotment. To allow for the implementation time needed on a statewide basis, it is imperative that the changed regulations become effective no later than January 1, 1988. This effective date will also insure that the State not become subject to a federal compliance sanction.

If you have any questions or need additional information, please contact me at 445-0313.



Rosalie Clark, Chief
Regulations Development Bureau

Amend Section 63-301.541(b)(1) to read:

63-301 APPLICATION PROCESSING TIME STANDARDS (Continued) 63-301

.5 Expedited Service (Continued)

.54 Special Procedures for Expediting Service

.541 (Continued)

(b) (Continued)

- (1) If a household eligible for expedited services reapplies after 95 days from the end of the annual review period in which the household had refused to cooperate with a non-federal QC reviewer or reapplies after seven months from the end of the annual review period in which the household had refused to cooperate with a Federal QC reviewer, the CWD shall issue one month's benefits in accordance with the processing standards and procedures in Sections 63-501.53. Before a second month's benefits are issued, the household shall provide verification of all household circumstances that could affect eligibility as specified in Section ~~63-300.51~~505.11.

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: Section 18901 Welfare and Institutions Code; and 7 CFR 273.2(d)(2).

Renumber Sections 63-504.324(a)(2) to (c) and (c) to (d) and amend Sections 63-504.324, (a), and (b)(1) to read:

63-504 HOUSEHOLD CERTIFICATION AND CONTINUING ELIGIBILITY 63-504
(Continued)

•3 (Continued)

•32 (Continued)

•324 All questions and items pertaining to food stamp eligibility are fully answered and provide the CWD with the information to correctly determine eligibility and benefit level, except as specified in Sections 63-504.324(c) and (d) and Section 63-505.311.

(a) To be considered fully answered, information on the CA 7 together with attached documentation must provide sufficient information to allow for the determination of eligibility and/or benefit level, except for the following:

(1) If earnings are reported, the name of the person(s) who received the income, and the amount of pay and date(s) received, must be on the CA 7. In addition, documentation must be attached to the CA 7.

(b) Questions on the CA 7 shall not be considered fully answered if situations such as, but not limited to the following, exist:

(1) The CA 7 does not include information on changes that the household has previously reported to have occurred; for example, an actual change that the household reported to the CWD by telephone was not included on the CA 7, or unless the appropriate case action has already been taken.

(2) (Continued)

(2c) (Continued)

(ed) (Continued)

Authority Cited: Sections 10554 and 18904, Welfare and
Institutions Code.

Reference: Section 18901, Welfare and Institutions Code.

Amend Sections 63-504.46 and .462(a) to read:

63-504 HOUSEHOLD CERTIFICATION AND CONTINUING ELIGIBILITY 63-504
(Continued)

.4 (Continued)

.46 Social Security Benefit Cost-of-Living Adjustments
(COLAs)

The CWD shall automatically adjust the household's food stamp benefits to reflect the Social Security COLA. Any changes shall be made within 120 days of the no later than the second allotment issued after the effective date of the Social Security benefit payment change.

.461 (Continued)

.462 (Continued)

(a) Recertification Process

All new food stamp households which contain at least one member who receives Social Security benefits shall, on a one-time basis, be assigned a certification period that will expire no later than during the 120 days second month following the effective date of the Social Security change. The recertification process time standards and notices to households shall be in accordance with Sections 63-504.25 and 63-504.631. (Continued)

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: Sections 18901 and 18902, Welfare and Institutions Code; and 7 CFR 273.12(e)(3).

Amend Section 63-505.1 to read:

63-505 HOUSEHOLD RESPONSIBILITIES

63-505

.1 Household Cooperation (Continued)

.11 Refusal to Cooperate with a Quality Control (QC) Reviewer

Once denied or terminated for refusal to cooperate, the household may reapply but shall not be determined eligible until it cooperates, or the household reapplies at least 95 days after the end of the annual review period in which the refusal to cooperate with a non-federal QC reviewer occurred, or the household reapplies after seven months from the end of the annual review period in which the refusal to cooperate with a Federal QC reviewer occurred. These households applying after 95 days from the end of the annual review period in which the household refused to cooperate with a QC reviewer, shall provide verification of all eligibility requirements, including items that would normally only be verified if questionable, as specified in Section 63-300.53.

Authority Cited: Section 10554 and 18904, Welfare and Institutions Code.

Reference: Section 18901, Welfare and Institutions Code; 7 CFR 273.2(d)(2) and 273.2(f)(1)(ix).

OFFICE OF ADMINISTRATIVE LAW CERTIFICATION OF APPROVAL

FILED

In the office of the Secretary of State
of the State of California

DEC 21 1987

At 3:00 o'clock P.M.

MARCH FONG EU, Secretary of State

By *Debra Bala*
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Department of Social Services

DAL File No: 87-1124-02

Linda Stockdale Brewer

LINDA STOCKDALE BREWER
DIRECTOR

12-22-87

Date

87-1218-02E

(See Instructions on Reverse)

SUBMITTED FOR REVIEW

DEC 18 1987

OFFICE OF ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING
DEC 28 1987

EMERGENCY

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

State Department of Social Services

(AGENCY)
John P. Michael
AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: 12/17/87

RDB #1187-53

FILED
In the office of the Secretary of State
of the State of California

DEC 28 1987
At 4:02 o'clock P.M.
MARCH FONG EU, Secretary of State
By *John P. Michael*
Deputy Secretary of State

For use of Office of Adm Law

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions)

NAME	TITLE	TELEPHONE
Rosalie Clark	Chief, Regulations Development Bureau	445-0313

2. Type of filing, (check one)

<input type="checkbox"/> 30-day Review	<input checked="" type="checkbox"/> Emergency	<input type="checkbox"/> Certificate of Compliance (Complete Part 4 below)
<input type="checkbox"/> Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)		
<input type="checkbox"/> Nonsubstantive changes with nonregulatory effect <input type="checkbox"/> Printing Error Correction		

3. a. Specify California Administrative Code title and sections as follows:

Title MPP

SECTIONS ADOPTED:

SECTIONS AMENDED:

42-720.13; 800, 803, 806, 807, 809, 811; 69-201.4, 203.42, 206.1, 206.5

SECTIONS REPEALED:

b. The following sections listed in 3a contain modifications to the text originally made available to the public:

4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)

☐ prior to the emergency adoption
☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.

5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?

☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL:

6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?

☒ No ☐ Yes, if yes, give date statement was submitted to OAL

7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)

<input type="checkbox"/> Fair Political Practices Commission (Include FPPC approval stamp)	<input type="checkbox"/> Building Standards Commission (Attach approval)
<input type="checkbox"/> State Fire Marshall (Attach approval)	<input type="checkbox"/> Department of Finance (Attach properly signed Std. 399)
<input type="checkbox"/> Other _____ (SPECIFY AGENCY)	

a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER	b. DATE OF FINAL AGENCY ACTION	c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c))
Not Applicable	December 17, 1987	Not Applicable

9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)

a. ☐ Effective 30th day after filing with the Secretary of State.
b. ☐ Effective upon filing with the Secretary of State.
c. ☒ Effective on 01/01/88 as required or allowed by the following statute(s): AB2635; Ch. 1192, Stats of 1987
d. ☐ Effective on _____ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
e. ☐ Effective on _____ (Designate effective date *later than* the normal effective date for the type of order filed.)

INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
- Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
 - Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
 - Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
 - An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
 - If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
 - If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
 - If an effective date later than specified above is requested, provide the date.

FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400 attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

DELEGATED AUTHORITY ORDER

I hereby authorize and designate Rosalie P. Clark, Chief, Regulations Development Bureau as the agency contact person who has authority to make decisions and answer questions regarding this regulation order.

A handwritten signature in cursive script, appearing to read "Linda S. McMahon".

LINDA S. McMAHON
Director

1) Amend Section 42-720.13 to read:

42-720 THE GAIN COUNTY PLAN

42-720

.1 Plan Approach

.11 (Continued)

.12 (Continued)

.13 The primary GAIN participants are AFDC applicants and recipients. The county may also provide services to refugees receiving or applying for Refugee Cash Assistance (RCA), Refugee Demonstration Project (RDP), and/or to General Assistance applicants and recipients, except that no funds appropriated for GAIN shall be used to serve these individuals.

.131 If a county elects to serve these individuals, the county shall maintain separate accounting records of expenditures for AFDC applicants and recipients and for RCA, RDP, and General Assistance applicants and recipients.

.132 (Continued)

.133 (Continued)

.134 (Continued)

.135 If a county elects to serve RDP program applicants and recipients, MPP Chapter 42-700 provisions shall apply to these individuals.

(a) All AFDC program regulations apply to RDP recipients except:

(1) The \$30 and 1/3 earned income disregard (see MPP 44-111.23 and 69-207.1); and,

(2) the 100-hour work rule (see MPP 41-440.7 and 69-208.4j).

(b) RDP recipients must accept any appropriate job referral/offer regardless of the wage (see MPP Section 69-208.1).

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Authority Cited: Sections 10553 and 10554, Welfare and
Institutions Code.

Reference: Section 11320.2, Welfare and Institutions
Code.

2) Amend Section 42-800 to read:

CHAPTER 42-800 GAIN REQUIREMENTS FOR RCA PARTICIPANTS

42-800 GAIN REQUIREMENTS FOR RCA PARTICIPANTS: INTRODUCTIONS 42-800

- 1 RCA eligibles who are residing in areas in which the county plan provides for their participation in the GAIN program, and who have more than six months of time-eligibility remaining as determined under Section 69-206.212, shall be required, as a condition of eligibility, to register and participate in GAIN.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11320.2, Welfare and Institutions Code.

3) Amend Section 42-803 to read:

42-803 BASIC PARTICIPANT CONTRACT REQUIREMENTS FOR RCA 42-803
GAIN PARTICIPANTS

- 1 Contract requirements in Sections 42-772.1, .2, .3 and .5 shall not apply to RCA GAIN participants.
- 2 If the RCA GAIN participant is deemed employable by the GWD, the basic contract shall provide that the individual has an option to participate either in Job Club (Section 42-730.21) or Supervised Job Search (Section 42-730.22)
 - 21 Employable means a person who is not exempt under Section 69-200.4 or is not deferred under Section 42-761.3.
- 3 Any employable RCA GAIN participant who lacks basic literacy or math skills, a high school diploma or its equivalent, or English language skills, shall participate in either remedial education, instruction in order to obtain General Education Development (GED) certificate, or instruction in English as a Second Language. This educational plan shall not be scheduled during Job Club or Job Search hours.
- 2.4 Self-initiated plans are allowable; however, an educational plan which includes full-time attendance in an institution of higher education, as defined in Section 69-206.5, shall not be allowed except as defined in Sections 69-206.52 or .53.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11320.2, Welfare and Institutions Code.

4) Amend Section 42-806 to read:

42-806 CAUSE DETERMINATIONS AND CONCILIATION FOR RCA 42-806
GAIN PARTICIPANTS

- .1 Cause determination and conciliation requirements in Sections 42-781.1 through ~~3~~ 8 shall apply, ~~except that Sections 42-781.211(f) through (j) shall not apply.~~ Additionally, Sections 42-781.6 through .9 shall not apply to RCA GAIN participants.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11320.2, Welfare and Institutions Code.

5) Amend Section 42-807 to read:

42-807 GOOD CAUSE CRITERIA FOR RCA GAIN PARTICIPANTS 42-807

- 1 All good cause criteria specified in Section 69-208.6 shall apply. Good cause criteria specified in Section 42-782 and 42-783 shall also apply except for Sections 42-783.1(k) through 42-783.1(m).

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11320.2, Welfare and Institutions Code.

6) Amend Section 42-809 to read:

42-809 CONCILIATION FOR RCA GAIN PARTICIPANTS

42-809

.1 For conciliation procedures, refer to Sections 42-781.4 and
•5 through .8.

Authority Cited: Sections 10553 and 10554, Welfare and
Institutions Code.

Reference: Section 11320.2, Welfare and Institutions Code.

7) Amend Section 42-811 to read:

42-811 FINANCIAL SANCTIONS FOR RCA GAIN PARTICIPANTS 42-811

- .1 If the nonexempt, nondeferred RCA GAIN participant has refused or failed, without good cause, to meet or comply with the requirements of Sections 69-208.1 through 69-208.3 and .5 and Sections 42-781.11 through .13, and the conciliation efforts in Sections 42-781.4 through .8 have failed, the CWD shall discontinue benefits in accordance with Section ~~69-208.7~~ 209.6.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

8) Amend Section 69-201.4 to read:

69-201 GENERAL STATEMENT (Continued)

69-201

.4 All current AFDC program regulations apply unless specifically superseded by the RDP or RCA regulations contained herein.

.41 All provisions of Chapter 42-700, except as otherwise specified, apply to RDP and RCA - GAIN participants. In addition RCA - GAIN participants must follow requirements contained in Chapter 42-800.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

9) Amend Section 69-203.42 to read:

69-203 DEFINITIONS (Continued)

69-203

•4 Cash Assistance

- 41 For purposes of determining eligibility for RCA, RCA means cash assistance provided to refugees who have been determined to be ineligible for AFDC or SSI/SSP and who have resided in the United States for 18 months or less from date of entry.

- 42 For purposes of determining eligibility for RDP assistance, RDP means cash assistance provided to time-eligible refugee families who would otherwise be eligible for federal AFDC and who meet the requirements of Sections 69-204.3 and 69-206.

RDP is provided under the authority of Public Law 98-473, Amendment 6965, (8 USC Section 1522(e) (7)) and required under Welfare and Institutions Code Section 13200, ~~for a three year period.~~ Certain refugee families applying for assistance and determined eligible for federal AFDC benefits must participate in RDP rather than AFDC. RDP provides cash assistance, based upon the the AFDC payment standard, and a strong support service element designed to accelerate refugee acculturation and the development of employment skills.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 13250, Welfare and Institutions Code.

10) Amend Section 69-206.1 to read:

69-206 ELIGIBILITY FOR REFUGEE DEMONSTRATION PROJECT 69-206
(RDP) OR REFUGEE CASH ASSISTANCE (RCA)

.1 Eligibility Factors

.11 RDP

All eligibility requirements for applicants for the federal AFDC program, Family Group (FG) or Unemployed Parent (U), apply to RDP. Additional factors which must be considered in determining eligibility are: time eligibility (69-206.211); refugee status (69-203.1); income and resources (69-207); income eligibility (69-206.4); attendance in an institution of higher education (69-206.5); and registration, employment and employment-directed educational/training requirements (69-208). In addition to these factors, as a condition for receiving assistance, the applicant/recipient shall, if applicable, provide the name of his/her sponsor or responsible VOLAG.

.111 Refugees residing in areas in which SDSS-funded employment-directed educational/training programs are not available shall not be required to participate in RDP.

.112 RDP eligibles residing in areas in which the GAIN County Plan provides for their participation in the GAIN Program shall be required to participate.

.12 RCA

Requirements of categorical relatedness applicable to the AFDC program are waived for assistance under RCA (see Section 69-203.41) and aid shall be granted without regard to the presence of children, age or number of hours worked. Factors which must be considered in determining eligibility are: time eligibility (69-206.212); refugee status (69-203.1); income and resources (69-207); income eligibility (69-206.4); attendance in an institution of higher education (69-206.5); and registration, employment and employment-directed educational/training requirements (69-208). In addition to these factors, as a condition for receiving assistance, the applicant/recipient shall, if applicable, provide the name of his/her sponsor or responsible VOLAG.

- 121 RCA eligibles who reside in areas in which the county plan provides for their participation in the GAIN program, and who have more than six months of time eligibility remaining shall be required to participate in GAIN. See Chapter 42-800 provisions.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11320.2 and 13250, Welfare and Institutions Code.

11) Amend Section 69-206.5 to read:

69-206 ELIGIBILITY FOR REFUGEE DEMONSTRATION PROJECT 69-206
(RDP) OR REFUGEE CASH ASSISTANCE (RCA) (Continued)

.5 Full-time student in an Institution of Higher Education

.51 (Continued)

.52 Refugees who are enrolled and participating in ~~ØSS~~
~~funded~~ training programs offered at an institution of
higher education on a full-time basis as part of an
employability plan developed by the CWD or its designee,
when such training is less than one year, shall not be
denied or discontinued from RCA.

.53 Refugees who are enrolled and participating in ~~ØSS~~
~~funded~~ training programs offered at an institution of
higher education on less than a full-time basis as part
of an employability plan developed by the CWD or its
designee, when such training is less than one year in
duration, shall not be denied or discontinued from RCA
when attendance in classes in a college program offered
at the institution results in full-time status.

Authority Cited: Sections 10553 and 10554, Welfare and
Institutions Code.

Reference: Section 11320.2, Welfare and Institutions Code.

**OFFICE OF ADMINISTRATIVE LAW
CERTIFICATION
OF
APPROVAL**

FILED

In the office of the Secretary of State
of the State of California

DEC 28 1987

At 4:00 o'clock P. M.

MARCH FONG EU, Secretary of State

By [Signature]
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Department of Social Services

OAL File No: 87-1218-02E

[Signature]
**LINDA STOCKDALE BREWER
DIRECTOR**

12/28/87

Date

EMERGENCY

81-1221-OE
RDB #1287-56
(See Instructions on Reverse)

SUBMITTED FOR REVIEW

DEC 21 1987

OFFICE OF ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING

DEC 29 1987

Office of Administrative Law

For use of Office of Adm Law

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

DEPARTMENT OF SOCIAL SERVICES

(AGENCY)

John S. Mahub

AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date:

12/21/87

FILED

In the office of the Secretary of State
of the State of California

DEC 29 1987
At 7:40 o'clock P.M.
MARCH FONG EU, Secretary of State
By *[Signature]*
Deputy Secretary of State

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions)	TITLE	TELEPHONE
Rosalie Clark, Chief	Regulations Development Bureau	445-0313

2. Type of filing, (check one) ☐ 30-day Review ☒ Emergency ☐ Certificate of Compliance (Complete Part 4 below)
- ☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
- ☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction

3. a. Specify California Administrative Code title and sections as follows:

Title MPP

SECTIONS ADOPTED:

SECTIONS AMENDED: 30-132

SECTIONS REPEALED:

- b. The following sections listed in 3a contain modifications to the text originally made available to the public:

4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)

- ☐ prior to the emergency adoption
- ☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.

5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?

☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL:

6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?

☒ No ☐ Yes, if yes, give date statement was submitted to OAL

7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)

- | | |
|---|--|
| <input type="checkbox"/> Fair Political Practices Commission
(Include FPPC approval stamp) | <input type="checkbox"/> Building Standards Commission
(Attach approval) |
| <input type="checkbox"/> State Fire Marshall (Attach approval) | <input type="checkbox"/> Department of Finance (Attach properly signed Std. 399) |
| <input type="checkbox"/> Other _____ | |

(SPECIFY AGENCY)

8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER	b. DATE OF FINAL AGENCY ACTION	c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c))
N/A	12/21/87	N/A

9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)

- a. ☐ Effective 30th day after filing with the Secretary of State.
- b. ☒ Effective upon filing with the Secretary of State. (January 1, 1988)
- c. ☐ Effective on _____ as required or allowed by the following statute(s):
- d. ☐ Effective on _____ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)
- Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
- e. ☒ Effective on 1/1/88 (Designate effective date *later than* the normal effective date for the type of order filed.)

EMERGENCY

INSTRUCTIONS FOR STD 400

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- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
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- Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
 - Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
 - Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
 - An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
 - If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
 - If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
 - If an effective date later than specified above is requested, provide the date.

FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400 attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

DELEGATED AUTHORITY ORDER

I hereby authorize and designate Rosalie P. Clark, Chief, Regulations Development Bureau as the agency contact person who has authority to make decisions and answer questions regarding this regulation order.

A handwritten signature in dark ink, appearing to read "Linda S. McMahon". The signature is fluid and cursive, with a long horizontal stroke at the end.

LINDA S. McMAHON
Director

Amend MPP Section 30-132 to read:

30-132 RESPONSE TO REFERRALS

30-132

- 1 The county welfare department shall respond to the following:
 - 11 All law enforcement agency referrals requests for emergency response services.
 - 12 Any other requests or referrals for service which allege that a child is endangered by abuse, neglect or exploitation.
- 2 Emergency response staff shall immediately review all requests or referrals to determine the time frame within which initial response is required as specified in •21 through •23 below.

Emergency response staff shall immediately assess all referrals to determine whether an in-person response is required.

- 21 Response shall be made immediately under either of the following circumstances:

The decision whether or not to make an in-person response shall be based on an assessment which shall include collateral contacts, a review of previous referrals and other relevant information to the extent such information or measures are necessary to conduct an assessment.

- 211 A law enforcement agency requests emergency response, unless the situation described meets the definition of "general neglect" specified in Penal Code Section 11165(c)(2)

This assessment shall include, but not be limited to, consideration of the following factors:

- (a) This statute defines "general neglect" as follows

The information provided in the referral describes a situation as defined in 30-002(a), (i), and (s).

- (1) The negligent failure of a person having care or custody of a child to

provide adequate food, clothing, shelter, medical care or supervision where no physical injury to the child has occurred.

(b) When the alleged incident of abuse occurred.

(c) Credibility of reporter.

(d) Relationship and access of alleged perpetrator to the child.

(e) History and disposition of prior referrals.

•212 The request or referral indicates the existence of a situation which is likely to imminently cause physical pain, injury, disability, severe emotional harm or death of a child.

•22 Response shall be made within three calendar days under either of the following circumstances:

•221 A law enforcement agency requests response on a nonemergency basis unless the situation meets the definition of "general neglect" as defined in Penal Code Section 11165(c)(2).

•222 The request or referral involves any type of abuse, neglect, or exploitation not specified in •21 above or •23 below.

•23 Response shall be made within ten calendar days to requests or referrals involving an allegation of only "general neglect" as defined in Penal Code Section 11165(c)(2).

•3 Upon the county welfare department's receipt of a request or referral, a social worker skilled in emergency response shall have immediate face-to-face contact with all children and available parent(s)/guardian(s) in situations requiring immediate response.

An in-person response shall be made immediately under either of the following circumstances:

•31 Such face-to-face contact shall be made within three calendar days in situations specified in •22 through •222 above, and within ten calendar days in situations involving allegations of "general neglect."

A law enforcement agency refers a minor who is at immediate risk of abuse, neglect or exploitation.

.32 The referral indicates the existence of a situation which is likely to imminently cause physical pain, injury, disability, severe emotional harm or death to a child.

.4 Upon the county welfare department's receipt of a referral that is assessed to require an immediate in-person response, a social worker skilled in emergency response shall have immediate in-person contact with all children and available parent(s)/guardian(s) in situations requiring immediate response.

.41 If all of the following circumstances exist and are documented in the Emergency Response, In-Person Response Case, the decision to contact any additional children in the family who are not present at the time of the initial response shall be at the discretion of the county welfare department:

.411 The county welfare department emergency response social worker has had in-person contact with the child(ren) alleged to be abused, neglected, or exploited and all other children present at the time of the social worker's response.

.412 The county welfare department emergency response social worker has had in-person contact with the parent(s)/guardian(s) available at the time of the response.

.413 The county welfare department social worker has made the necessary collateral contacts.

.5 All other in-person responses shall be made within ten calendar days.

.6 No response is required to a cross-report from a law enforcement agency if the law enforcement agency has investigated and determined that there is no indication of abuse or neglect by a member of the child's household.

.47 (Continued)

.58 (Continued)

Authority Cited: Sections 10553 and 10554 of the Welfare and Institution Code.

Reference: Sections 16501.1 and 16504 of the Welfare and Institutions Code.

FILED

In the office of the Secretary of State
of the State of California

DEC 29 1987

At 11 o'clock

By LA Secretary of State

OFFICE OF ADMINISTRATIVE CERTIFICATION OF APPROVAL

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Department of Social Services

DAL File No: 87-1221-01E


for LINDA STOCKDALE BREWER
DIRECTOR

12/29/87
Date

89-1221-02E
(See Instructions on Reverse)

SUBMITTED FOR REVIEW

DEC 21 1987

OFFICE OF ADMINISTRATIVE LAW
ENDORSED
APPROVED FOR FILING
DEC 30 1987

~~Office of Administrative Law~~

For use of Office of Adm Law

FACE SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW
EMERGENCY

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

State Department of Social Services

(AGENCY)

J. L. S. McArthur

AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: 12/21/87

RDB# 1187-54

FILED

In the office of the Secretary of State
of the State of California

DEC 30 1987

At 4:36 o'clock P.M.

MARCH FONG EU, Secretary of State

By *John Bates*
Deputy Secretary of State

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions) TITLE TELEPHONE
Rosalie Clark, Chief, Regulations Development Bureau (916) 445-0313
2. Type of filing, (check one) ☐ 30-day Review ☒ Emergency ☐ Certificate of Compliance (Complete Part 4 below)
☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction
3. a. Specify California Administrative Code title and sections as follows:
Title 22
SECTIONS ADOPTED:
SECTIONS AMENDED:
80018(c), 80020(a) and (b), 87018(c), 87020(a), 87402(a), 87406(a), 101169(c),
SECTIONS REPEALED:
101171(a) and (b), 102369(b), and 102371(a)
- b. The following sections listed in 3a contain modifications to the text originally made available to the public: _____
4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)
☐ prior to the emergency adoption
☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.
5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?
☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL: _____
6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?
☒ No ☐ Yes, if yes, give date statement was submitted to OAL: _____
7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)
☐ Fair Political Practices Commission (Include FPPC approval stamp) ☐ Building Standards Commission (Attach approval)
☐ State Fire Marshall (Attach approval) ☐ Department of Finance (Attach properly signed Std. 399)
☐ Other _____ (SPECIFY AGENCY)
8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER NA b. DATE OF FINAL AGENCY ACTION December 21, 1987 c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c)) NA
9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)
a. ☐ Effective 30th day after filing with the Secretary of State.
b. ☒ Effective upon filing with the Secretary of State. (January 1, 1988)
c. ☐ Effective on _____ as required or allowed by the following statute(s): _____
d. ☐ Effective on _____ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
e. ☐ Effective on _____ (Designate effective date *later than* the normal effective date for the type of order filed.)

INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
- Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
 - Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
 - Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
 - An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
 - If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
 - If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
 - If an effective date later than specified above is requested, provide the date.

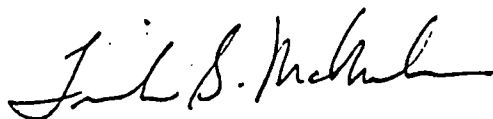
FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400 attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

DELEGATED AUTHORITY ORDER

I hereby authorize and designate Rosalie P. Clark, Chief, Regulations Development Bureau as the agency contact person who has authority to make decisions and answer questions regarding this regulation order.

A handwritten signature in dark ink, appearing to read "Linda S. McMahon". The signature is fluid and cursive, with the first name "Linda" being more prominent.

LINDA S. MCMAHON
Director

Amend Section 80018(c) and renumber current (11) through (15) to (12) through (16), respectively to read:

80018 APPLICATION FOR LICENSE (Continued)

80018

(c) The application and supporting documents shall contain the following: (Continued)

(11) Name, address and telephone number of the city or county fire department, the district providing fire protection services, or the State Fire Marshal's Office having jurisdiction in the area where the facility is located.

(11~~2~~)

(12~~3~~)

(13~~4~~)

(14~~5~~)

(15~~6~~)

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1520, 1522, 1528, 1531, and 1560, Health and Safety Code.

Amend Sections 80020(a) and (b) to read:

80020 FIRE CLEARANCE

80020

- (a) All facilities shall secure a fire clearance approved by the city or county fire department, the district providing fire protection services, or the State Fire Marshal.

~~(1)~~ The State Fire Marshal requires that the request for fire clearance be made through and approval maintained by the licensing agency.

- (1) The request for fire clearance shall be made through and maintained by the licensing agency.

- (b) The applicant shall notify the licensing agency if the facility plans to admit any of the following categories of clients so that an appropriate fire clearance, approved by the city or county fire department, the district providing fire protection services, or the State Fire Marshal can be obtained prior to the acceptance of such clients:

- (1) Persons 65 years of age and over.

- (2) Persons who are nonambulatory, as defined in Section 80001(a)(36).

(A) Persons who use supportive restraints pursuant to Section 80072(a)(8) are nonambulatory.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1520, 1528, and 1531, Health and Safety Code.

HANDBOOK

HANDBOOK

Amend Section 87018(c) and renumber current (7) through (11) to (8) through (12), respectively to read:

87018 APPLICATION FOR LICENSE (Continued)

87018

(c) The application and supporting documents shall contain the following: (Continued)

(7) Name, address and telephone number of the city or county fire department, the district providing fire protection services, or the State Fire Marshal's Office having jurisdiction in the area where the facility is located.

(78)

(89)

(910)

(101)

(112)

Authority Cited: Sections 1530 and 1530.5, Health and Safety Code.

Reference: Sections 1501, 1520, and 1531, Health and Safety Code.

Amend Section 87020(a) to read:

87020 FIRE CLEARANCE

87020

- (a) Prior to accepting a disabled child, or deciding to continue to provide services to a child determined after placement to have a disability, the licensee shall notify the licensing agency so that a fire clearance approved by the city or county fire department, the district providing fire protection services, or the State Fire Marshal, can be obtained.

~~(1) The State Fire Marshal requires that the request for a fire clearance be made through and approval maintained by the licensing agency.~~

HANDBOOK

- (1) The request for fire clearance shall be made through and maintained by the licensing agency.

Authority Cited: Sections 1530 and 1530.5, Health and Safety Code.

Reference: Sections 1501 and 1531, Health and Safety Code.

Amend Section 87402(a) and renumber current (15) to (17) to read:

87402 APPLICATION FOR LICENSE

87402

(a) Any individual, firm, partnership, association, corporation or governmental entity desiring to obtain a license shall file with the licensing agency a verified application on forms furnished by the licensing agency. For renewal applications, the information submitted on the previous application shall be verified and updated where appropriate. The licensee shall cooperate with the licensing agency in providing verification and/or documentation as requested by the licensing agency. The application and supporting documents shall contain the following: (Continued)

(16) Name, address and telephone number of the city or county fire department, the district providing fire protection services, or the State Fire Marshal's Office having jurisdiction in the area where the facility is located.

(157)

Authority Cited: Section ~~1530~~ 1569.30, Health and Safety Code.

Reference: Sections ~~1501, 1503, 1509, 1511, 1520, 1523, 1525, 1530 and 1531,~~ 1569.1, 1569.2, 1569.5, 1569.15, 1569.151, 1569.16, 1569.17, 1569.175, 1569.18, 1569.19, 1569.20, 1569.21, 1569.22, 1569.23, 1569.24, 1569.30, 1569.312, 1569.45, 1569.60 and 1569.62, Health and Safety Code.

Amend Section 87406(a) to read:

87406 FIRE CLEARANCE

87406

(a) All facilities shall maintain a fire clearance approved by the city or county fire department, the district providing fire protection services, or the State Fire Marshal. Prior to accepting any of the following types of persons, the applicant or licensee shall notify the licensing agency and obtain an appropriate fire clearance approved by the city or county fire department, the district providing fire protection services, or the State Fire Marshal, through the licensing agency:

- (1) Persons over 65 years of age.
- (2) Nonambulatory persons.

Authority Cited: Section ~~1530~~ 1569.30, Health and Safety Code.

Reference: Sections ~~1501~~ and ~~1530~~ 1569.2, 1569.30, and 1569.312, Health and Safety Code.

Amend Section 101169(c) and renumber current (11) through (14) to (12) through (15), respectively to read:

101169 APPLICATION FOR LICENSE (Continued)

101169

(c) The application and supporting documents shall contain the following: (Continued)

(11) Name, address and telephone number of the city or county fire department, the district providing fire protection services, or the State Fire Marshal's Office having jurisdiction in the area where the facility is located.

(11~~2~~)

(12~~3~~)

(13~~4~~)

(14~~5~~)

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.81(b), ~~1596.83~~, 1596.856, and 1596.95, Health and Safety Code.

Amend Sections 101171(a) and (b) to read:

101171 FIRE CLEARANCE

101171

- (a) All facilities shall secure and maintain a fire clearance approved by the city or county fire department, the district providing fire protection services, or the State Fire Marshal.

~~(1)~~ The State Fire Marshal requires the request for fire clearance be made through the licensing agency.

HANDBOOK

(1) The request for fire clearance shall be made through and maintained by the licensing agency.

- (b) The applicant shall notify the licensing agency if the facility plans to admit children who are nonambulatory as defined in Section 101152(a)(28) so that an appropriate fire clearance, approved by the city or county fire department, the district providing fire protection services, or the State Fire Marshal, can be obtained prior to acceptance of such children.

(21) Persons who use supportive restraints pursuant to Section 101223(a)(7) are nonambulatory.

HANDBOOK

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.72, 1596.73, 1596.81, 1596.95, and 1597.05, Health and Safety Code.

Amend Section 102369(b) and renumber current (6) to (7) to read:

102369 APPLICATION FOR INITIAL LICENSE (Continued) 102369

(b) The applicant shall provide all of the following information at the time of submission of the application: (Continued)

(6) Name, address and telephone number of the city or county fire department, the district providing fire protection services, or the State Fire Marshal's Office having jurisdiction where the Family Day Care Home is located.

(67)

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1597.54 and 1597.57, Health and Safety Code.

Amend Section 102371(a) to read:

102371 FIRE SAFETY CLEARANCE

102371

(a) A fire safety clearance approved by the city or county fire department, the district providing fire protection services, or by the State Fire Marshal shall be required for any Family Day Care Home which is licensed for seven or more, and when one or more nonambulatory children, as defined in Health and Safety Code Section 13131 and 13143, are in care.

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections ~~1596.63~~, 1596.81(b), 13131, ~~13131.3~~ and 13143, Health and Safety Code.

OFFICE OF ADMINISTRATIVE LAW
CERTIFICATION
OF
APPROVAL

FILED

In the office of the Secretary of State
of the State of California

DEC 30 1987

At 2:36 o'clock P.M.

MARCH FONG EU, Secretary of State

By *John Bates*
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Department of Social Services

OAL File No: 87-1221-02E

Linda Stockdale Brewer
for LINDA STOCKDALE BREWER
DIRECTOR

12/30/87
Date

SUBMITTED FOR REVIEW

DEC 04 1987

OFFICE OF ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING

DEC 30 1987

Office of Administrative Law

For use of Office of Adm Law

REGULAR

FACE SHEET

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

DEPARTMENT OF SOCIAL SERVICES

(AGENCY)

John S. McArthur
AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: 11/25/87

(See Instructions on Reverse)

RDB #0986-40

FILED

In the office of the Secretary of State
of the State of California

DEC 30 1987

At 4:36 o'clock P.M.

MARCH FONG EU, Secretary of State

By *John S. McArthur*
Deputy Secretary of State

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions) Rosalie Clark, Chief, Regulations Development Bureau	TITLE	TELEPHONE
		445-0313

2. Type of filing, (check one) ☒ 30-day Review ☐ Emergency ☐ Certificate of Compliance (Complete Part 4 below)
- ☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
- ☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction

3. a. Specify California Administrative Code title and sections as follows:

Title 22 SECTIONS ADOPTED:

SECTIONS AMENDED: 80022(b), 80068(b), 80072(a), (b) & (c), 87022(b), 87068(b), 87072(a), 87144(a), 87504(a) and 87718(b).

SECTIONS REPEALED:

- b. The following sections listed in 3a contain modifications to the text originally made available to the public:

4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)

- ☐ prior to the emergency adoption
- ☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.

5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?

☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL:

6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?

☒ No ☐ Yes, if yes, give date statement was submitted to OAL

7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)

- ☐ Fair Political Practices Commission (Include FPPC approval stamp) ☐ Building Standards Commission (Attach approval)
- ☐ State Fire Marshall (Attach approval) ☐ Department of Finance (Attach properly signed Std. 399)
- ☐ Other _____ (SPECIFY AGENCY)

8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER April 3, 1987	b. DATE OF FINAL AGENCY ACTION November 25, 1987	c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c))
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9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)

- a. ☒ Effective 30th day after filing with the Secretary of State.
- b. ☐ Effective upon filing with the Secretary of State.
- c. ☐ Effective on _____ as required or allowed by the following statute(s):
- d. ☐ Effective on _____ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
- e. ☐ Effective on _____ (Designate effective date *later than* the normal effective date for the type of order filed.)

RA 11333A

INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
- Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
 - Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
 - Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
 - An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
 - If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
 - If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
 - If an effective date later than specified above is requested, provide the date.

FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- *Seven (7) copies of the regulations.* Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- *A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400* attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- *Complete rulemaking file, with index and sworn statement.* (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

DELEGATED AUTHORITY ORDER

I hereby authorize and designate Rosalie P. Clark, Chief, Regulations Development Bureau as the agency contact person who has authority to make decisions and answer questions regarding this regulation order.

A handwritten signature in cursive script, appearing to read "Linda S. McMahon".

LINDA S. McMAHON
Director

Amend Section 80022(b) to read:

80022 PLAN OF OPERATION (Continued)

80022

(b) The plan and related materials shall contain the following:
(Continued)

(14) A statement of the facility's policy concerning family visits and other communications with the client pursuant to Health and Safety Code Section 1512.

(A) Section 1512 of the Health and Safety Code provides that:

This policy shall be designed to encourage regular family involvement with the client and shall provide ample opportunities for family participation in activities at the facility.

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Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1512, 1520, 1528 and 1531,
Health and Safety Code.

Amend Section 80068(b) to read:

80068. ADMISSION AGREEMENTS (Continued)

80068

(b) Admission Agreements shall specify the following:
(Continued)

(8) The facility's policy concerning family visits and other communication with clients, pursuant to Health and Safety Code Section 1512.

(A) Section 1512 of the Health and Safety Code provides that:

This policy shall be designed to encourage regular family involvement with the client and shall provide ample opportunities for family participation in activities at the facility.

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Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1512, and 1531, Health and Safety Code.

Amend Section 80072(a) to read:

80072 PERSONAL RIGHTS

80072

(a) Each client shall have personal rights which include, but are not limited, to the following: (Continued)

(10) To be informed of the facility's policy concerning family visits and other communication with clients, as specified in Health and Safety Code Section 1512.

(A) Section 1512 of the Health and Safety Code provides that:

The policy shall be designed to encourage regular family involvement with the client and shall provide ample opportunities for family participation in activities at the facility.

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Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1512, ~~1528~~, and 1531, Health and Safety Code.

Amend Sections 80072(b) and (c) to read:

80072 PERSONAL RIGHTS (Continued)

80072

- (b) All clients, or their authorized representative(s), shall be personally advised of and given at admission a copy of the rights specified in (a)(1) through (910) above and in the applicable Personal Rights sections of Chapters 2 through 7.
- (c) The information specified in (b) above including the visiting policy as stated in the admissions agreement shall be prominently posted in areas accessible to such clients and their visitors.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1512, ~~1528~~ and 1531, Health and Safety Code.

Amend Section 87022(b) to read:

87022 PLAN OF OPERATION (Continued)

87022

(b) The plan and related materials shall contain the following:
(Continued)

(9) A statement of the facility policy concerning family visits and other communication with clients, as specified in Health and Safety Code Section 1512.

(A) This policy shall be consistent with the child's services plan.

(B) To the extent that the visiting policy is consistent with the child's services plan, this policy shall also be designed to encourage regular family involvement with the client and shall provide ample opportunities for family participation in activities at the facility as provided in Section 1512 of the Health and Safety Code.

Authority Cited: Section 1530 and 1530.5, Health and Safety Code.

Reference: Section 1501, 1512, 1520 and 1531, Health and Safety Code.

Amend Section 87068(b) to read:

87068 ADMISSION AGREEMENTS (Continued)

87068

(b) Admission Agreements shall specify the following:
(Continued)

(8) The facility's policy concerning family visits and other communications with the child as specified in Health and Safety Code Section 1512.

(A) This policy shall be consistent with the child's services plan.

Authority Cited: Sections 1530 and 1530.5, Health and Safety Code.

Reference: Sections 1501, 1512, and 1531, Health and Safety Code.

Amend and renumber Sections 87072(a) and (c) to read:

87072 PERSONAL RIGHTS

87072

(a) Each child shall have personal rights which include but are not limited to the following: (Continued)

(9) To be informed of the facility's policy concerning family visits and other communication with the child as specified in Health and Safety Code Section 1512.

(910) To have visitors as specified below by mutual agreement between the licensee and the visitors, provided the rights of others are not infringed upon:

(A) Relatives, during waking hours, unless prohibited by court order or by the child's authorized representative.

(B) Authorized representative.

(C) Other visitors unless prohibited by court order or by the child's authorized representative.

(101) (Continued)

(112) (Continued)

(123) (Continued)

(134) (Continued)

(145) (Continued)

(156) (Continued)

(b) (Continued)

(c) Each child, and his/her authorized representative, shall be personally advised and given at admission a copy of the rights specified in (a)(1) through (156) above.

Authority Cited: Sections 1530 and 1530.5, Health and Safety Code.

Reference:

Sections 1501, 1512, 1531, and 1539, Health and
Safety Code.

Amend and renumber Section 87144(a) to read:

87144 PERSONAL RIGHTS

87144

(a) Each resident shall have personal rights which include, but are not limited to, the following: (Continued)

(101) To be informed of the facility's policy concerning family visits and other communications with residents, as specified in Health and Safety Code Section 1569.313.

(A) Section 1569.313 of the Health and Safety Code provides that:

The policy shall be designed to encourage regular family involvement with the resident and shall provide ample opportunities for family participation in activities at the facility.

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(101) To have his/her visitors, including ombudspersons and advocacy representatives, permitted to visit privately during reasonable hours but and without prior notice, provided that the rights of other residents are not infringed upon.

(112) (Continued)

(123) (Continued)

(134) (Continued)

(145) To mail and receive unopened correspondence in a prompt manner.

(156) (Continued)

(167) (Continued)

(178) (Continued)

Authority Cited: Section ~~1530~~ 1569.30, Health and Safety Code.

Reference: Sections ~~1501~~, ~~1530~~, and ~~1531~~ 1569.1, 1569.30, 1569.31, and 1569.313, Health and Safety Code.

Amend Section 87504(a) to read:

87504 PLAN OF OPERATION

87504

(a) Each facility shall have and maintain a current, written definitive plan of operation. The plan and related materials shall be on file in the facility and shall be submitted to the licensing agency with the license application. Any significant change in the plan of operation which would affect the services to residents shall be submitted to the licensing agency for approval. The plan and related materials shall contain the following: (Continued)

(10) A statement of the facility's policy concerning family visits and other communication with clients, as specified in Health and Safety Code Section 1569.313.

(A) Section 1569.313 of the Health and Safety Code provides that:

This policy shall be designed to encourage regular family involvement with the client and shall provide ample opportunities for family participation in activities at the facility.

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Authority Cited: Section ~~1530~~ 1569.30, Health and Safety Code.

Reference: Sections ~~1501~~, ~~1520~~, ~~1530~~, ~~1531~~, ~~1560~~ 1569.1, 1569.2, 1569.30, 1569.31, and 1569.313, Health and Safety Code, and Section 11006.9, Welfare and Institutions Code.

Amend and renumber Section 87718(b) to read:

87718 ADMISSION AGREEMENTS (Continued)

87718

(b) Agreements shall specify the following: (Continued)

(9) The facility's policy concerning family visits and other communication with residents, pursuant to Health and Safety Code Section 1569.313.

(A) Section 1569.313 of the Health and Safety Code provides that:

This policy shall be designed to encourage regular family involvement with the resident and shall provide ample opportunities for family participation in activities at the facility.

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(910) Other conditions under which the agreement may be terminated.

Authority Cited: Section ~~1530~~ 1569.30, Health and Safety Code.

Reference: Sections ~~1501~~, ~~1502~~, ~~1507~~, ~~1530~~, ~~1531~~, ~~1560~~ 1569.1, 1569.2, 1560.30, 1569.31, 1569.313, and 1770 et seq., Health and Safety Code.

**OFFICE OF ADMINISTRATIVE LAW
CERTIFICATION
OF
APPROVAL**

FILED
In the office of the Secretary of State
of the State of California

DEC 8 0 1987
At 4:36 o'clock P.M.
MARCH FONG EU, Secretary of State
[Signature]
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Department of Social Services

DAL File No: 87-1204-01

[Signature]
**LINDA STOCKDALE BREWER
DIRECTOR**

12/30/87
Date

FACE SHEET

SUBMITTED FOR REVIEW

DEC 23 1987

OFFICE OF ADMINISTRATIVE LAW

ENDORSED

APPROVED FOR FILING

DEC 30 1987

~~Office of Administrative Law~~

EMERGENCY

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

State Department of Social Services

(AGENCY)

L. L. S. McNeil

AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: 12/21/87

FILED

In the office of the Secretary of State
of the State of California

DEC 30 1987

At 3:36 o'clock P.M.

MARCH FONG EU, Secretary of State

By

R. B. Bates
Deputy Secretary of State

For use of Office of Adm Law

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING
(See instructions)

TITLE

TELEPHONE

Rosalie P. Clark, Chief, Chief Regulations Development Bureau

445-0313

2. Type of filing, (check one) ☐ 30-day Review ☒ Emergency ☐ Certificate of Compliance (Complete Part 4 below)
- ☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
- ☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction

3. a. Specify California Administrative Code title and sections as follows:

Title MPP

SECTIONS ADOPTED:

Manual of Policies and Procedures, 40-001

SECTIONS AMENDED:

MPP Sections 40-187.2, 44-211.3, 44-211.4, 44-211.5 and 44-211.6

SECTIONS REPEALED:

MPP Section 44-211.3

b. The following sections listed in 3a contain modifications to the text originally made available to the public:

4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)

- ☐ prior to the emergency adoption
- ☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.

5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?

- ☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL:

6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?

- ☒ No ☐ Yes, if yes, give date statement was submitted to OAL

7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)

- ☐ Fair Political Practices Commission (Include FPPC approval stamp) ☐ Building Standards Commission (Attach approval)
- ☐ State Fire Marshall (Attach approval) ☒ Department of Finance (Attach properly signed Std. 399)
- ☐ Other _____

(SPECIFY AGENCY)

8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER

N/A

b. DATE OF FINAL AGENCY ACTION

December 21, 1987

c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c))

N/A

9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)

- a. ☐ Effective 30th day after filing with the Secretary of State.
- b. ☐ Effective upon filing with the Secretary of State.
- c. ☐ Effective on _____ as required or allowed by the following statute(s): _____
- d. ☐ Effective on _____ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)
- Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
- e. ☒ Effective on 2/1/88 (Designate effective date *later than* the normal effective date for the type of order filed.)

INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
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 - Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
 - Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
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- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
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 - If an effective date later than specified above is requested, provide the date.

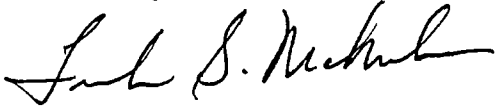
FILING REQUIREMENTS

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- A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400 attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

DELEGATED AUTHORITY ORDER

I hereby authorize and designate Rosalie P. Clark, Chief, Regulations Development Bureau as the agency contact person who has authority to make decisions and answer questions regarding this regulation order.

A handwritten signature in cursive script, appearing to read "Linda S. McMahon".

LINDA S. McMAHON
Director

Adopt MPP Section 40-001 to read:

40-001 IMPLEMENTATION OF NONRECURRING SPECIAL NEEDS 40-001

This regulatory action consisting of repeal of MPP Section 44-211.3, amendment of 40-187.2, renumbering of 44-211.4 and adoption of new 44-211.3, 44-211.4, and 44-211.5 shall be effective February 1, 1988, contingent upon federal approval of California's State Plan Amendment to revise nonrecurring special needs to provide for homeless assistance.

The implementation date of the regulations shall be the date of federal approval, if this date is later than February 1, 1988.

Authority Cited: Sections 10553 and 10554 of the Welfare and Institutions Code.

Reference: Section 11450(f) of the Welfare and Institutions Code.

Amend MPP Section 40-187 to read:

40-187 INTERCOUNTY TRANSFERS - GENERAL (Continued) 40-187

•2 Responsibility for Payment of Aid when a Recipient Moves from One County to Another to Make His/Her Home (Continued)

•22 Exceptions to Intercounty Transfer Rule (Continued)

•224 When an AU is applying for homeless assistance the second county is responsible for following up with the first county as part of the determination of eligibility for homeless assistance. [HANDBOOK: See Section 44-211.5.]

(a) The second county is responsible from the date of the request for issuing the payment for homeless assistance.

Authority Cited: Sections 10553 and 10554 of the Welfare and Institutions Code.

Reference: Section 11450(f) of the Welfare and Institutions Code.

Amend MPP Section 44-211 to repeal 44-211.3:

44-211 SPECIAL NEEDS FOR AFDC (Continued)

44-211

§3 Nonrecurring Special Needs

§31 A recipient FBU is eligible for a nonrecurring special need allowance to repair or replace any of the items listed in §34 below which are owned by the recipient family when loss or damage of these items occurs which, in the judgment of the county, is due to sudden and unusual circumstances beyond the control of the family. Loss or damage caused by wear and tear, breakdown, or obsolescence is not considered due to sudden and unusual circumstances beyond the control of the family. A recipient FBU is also eligible for a nonrecurring special need allowance for verified expenses for housing needs which are caused by sudden and unusual circumstances beyond the control of the family as described in §35 below.

§32 The county shall determine the most feasible and economic method of repair or replacement including the provision of used, serviceable items and such method shall be binding upon the recipients. Repair or replacement shall be allowed only when the item is not available to the family without cost from any source. If the recipient is to purchase the item(s), verification of purchase may be required by the county.

§33 The costs of any nonrecurring special needs shall be met by first requiring the applicant/recipient to utilize all his available liquid assets. When the amount of a nonrecurring special need can be met only in part by the applicant's/recipient's available liquid assets, the balance shall be allowed as a part of the grant.

Property items that are immediately available as cash or that which can be converted immediately to cash, such as negotiable stocks or bonds, bank accounts, etc., shall be considered available liquid assets. The cash surrender value of insurance, mortgages, trust deeds, the market value of household furnishings and personal effects, automobiles, real property, tools of trade, equipment and materials necessary to implement and continue an approved plan of employment, etc., shall not be considered available liquid assets.

income which was appropriately exempt from consideration in determining the public assistance grant for the current month such as the \$30 and 1/3 exemption for earned income shall be considered a liquid asset provided it is still available. Relocation assistance benefits, educational loans or grants, incentive payments, and training allowances received for participation in rehabilitation, training and employment services to the extent these payments do not exceed actual expenses, and other monies received for a specific purpose, shall not be considered available liquid assets.

- *34 The amount of the allowance for each item to be repaired or replaced shall be determined by the lesser of the actual cost including sales tax, or the maximum amount listed below:

*341 Clothing -- \$25 for each person in the Family Budget Unit.

*342 Bedding, dishes, and kitchen utensils -- \$12 for each person in the Family Budget Unit.

*343 Cook stove -- \$142.

*344 Refrigerator -- \$190.

*345 Space heater -- \$73.

*346 Double bed including mattress -- \$143.

*347 Other essential furniture -- \$50.

- *35 Housing needs considered to be caused by sudden and unusual circumstances beyond the control of the family shall only include instances in which the housing is destroyed or made uninhabitable or unavailable by a sudden and unusual circumstance, or instances in which the family is evicted by a public authority on the grounds of substandard housing and such eviction is due to sudden and unusual circumstances beyond the control of the family.

*351 The allowance shall include:

a. The cost of moving.

b. The cost of electric and gas utility deposits.

- c. Cleaning and security deposits or charges (including the first and last month's rent) to the extent such deposits or charges cannot be met from the return of cleaning and security deposits or charges from the family's prior residence.
 - d. If there is no telephone in the new residence or in the common area of the new residence, the installation (connection) cost of the least expensive telephone service available.
 - e. Labor and material costs for repairs to housing in which the FBU lives and which a member of the FBU owns.
 - f. The cost of interim shelter.
36. The total amount allowed for nonrecurring special needs in addition to liquid assets utilized by the applicant/recipient shall not exceed \$500 for each incident described in Section 44-211.31.
37. The county may pay the nonrecurring special need allowance in multiple payments over a period not to exceed three months. A nonrecurring special need paid in this manner shall not be considered recurring.

Authority Cited: Section 10553 and 10554 of the Welfare and Institutions Code.

Reference: Section 11450(f) of the Welfare and Institutions Code.

Amend Section 44-211 to adopt subsections .3, .4, and .5, and renumber .4 to .6 to read:

44-211 Special Needs for AFDC (Continued)

44-211

.3 Nonrecurring Special Need Payments

.31 A payment for a nonrecurring special need shall be granted to an eligible AU when any of the following conditions exist:

.311 Household emergencies resulting from sudden and unusual circumstances beyond the AU's control. (See MPP 44-211.4).

.312 Homelessness when the AU is seeking shelter. (See MPP 44-211.5).

.32 An AU is ineligible to receive a nonrecurring special need payment if it has over \$100 in nonexempt liquid resources.

.33 Liquid resources of \$100 or less shall not be considered for purposes of computing the nonrecurring special need payment.

HANDBOOK

See MPP 42-211.2 for definition of liquid resources; see MPP 40-129.21 for exceptions to the MPP 42-211.2 definitions.

.4 Emergencies Resulting from Sudden and Unusual Circumstances Beyond the AU's Control

.41 An AU is entitled to receive a nonrecurring special need payment to repair or replace clothing or household equipment; to provide assistance for damages to the home; or to pay for interim shelter when the AU's home was destroyed or made uninhabitable or inaccessible. (See MPP 44-211.42, .43, and .44 respectively.)

.411 The loss or damage must have been caused by sudden and unusual circumstances beyond the AU's control.

.412 The CWD shall determine the most feasible and economic method of repair or replacement including

the provision of donated or used serviceable items.

.413 The total amount allowed for the payment for household emergencies shall not exceed \$600 for each incident resulting from the circumstances described in MPP 44-211.41 and .411.

(a) The amount of the payment for each item to be repaired or replaced, or to assist with damage to the home, shall be the actual cost, including sales tax, up to a total maximum not to exceed the amount allowed in MPP 44-211.413.

(b) Payment shall not be made to repair or replace clothing, household items or damage to the home occupied by the AU, unless the clothing, household items or home belonged to a member of the AU.

.42 Clothing and Household Equipment

.421 Within the limit specified in MPP 44-211.413, a payment made to replace clothing may not exceed \$25 for each member of the AU.

.422 Items of household equipment which may be repaired or replaced include, but are not limited to the following:

(a) Bedding, dishes, kitchen utensils - \$12 for each person in the AU

(b) Cook stove - \$142

(c) Refrigerator - \$190

(d) Space heater - \$73

(e) Double bed including mattress - \$143

(f) Other essential furniture - \$50

.43 Damage to the AU's Home

.431 Within the limit specified in MPP 44-211.413, a payment may be made for the costs of essential repair or replacement resulting from damage to the AU's home.

.432 The payment shall be allowed for the following costs:

(a) Moving and/or storage costs necessitated by the damage to the home.

(b) Labor and material costs for repair of the home in which the AU lives and which a member of the AU owns.

.44 Interim Shelter

.441 An AU may receive a nonrecurring special need payment for the costs of interim shelter when its home has been destroyed, made uninhabitable or inaccessible.

.442 An AU is not eligible to receive a nonrecurring special need payment for the costs of interim shelter if it is eligible to receive the nonrecurring special need payment for homeless assistance described in MPP 44-211.5.

.5 Homeless Assistance

.51 General

A homeless AU seeking permanent housing is eligible to receive homeless assistance. Homeless assistance is available to meet the reasonable costs of securing permanent housing and is also available to meet the costs of temporary shelter, to the extent that such shelter assists an AU while securing permanent housing.

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See MPP 44-211.52 for specifics regarding the payment for temporary shelter assistance; see MPP 44-211.53 for specifics regarding the payment for permanent housing assistance.

.511 An AU is considered homeless when:

(a) It lacks a fixed and regular nighttime residence; or

(b) It has a primary nighttime residence that is a supervised publicly or privately

operated shelter designed to provide temporary living accommodations; or

(c) It is residing in a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

.512 An AU is not considered homeless when it is sharing housing, unless the housing is being shared on an emergency basis and is temporary.

.513 An AU is eligible for the nonrecurring special need payment for homeless assistance for one incident of homelessness in a consecutive twelve-month period. A homeless assistance payment may be granted for either, or both, temporary shelter or permanent housing.

(a) The twelve-month period begins in the month in which the first homeless assistance payment is issued.

(b) The incident of homelessness ends when the AU receives the payment for permanent housing.

(1) An AU is not eligible for temporary shelter assistance, once it has been granted permanent housing assistance, until the end of the twelve-month period.

(2) An AU is eligible to receive permanent housing assistance regardless of whether or not it has been issued the payment for temporary shelter.

.514 In intercounty transfer cases, the CWD from which the homeless assistance payment is requested is responsible for following up with the transferring CWD as part of the homeless assistance eligibility determination.

(a) The CWD from which homeless assistance is requested is responsible from the date of the request for determining the homeless assistance eligibility determination and issuing the homeless assistance payment.

.515 The CWD shall comply with an AU's request to make direct payments to providers of temporary shelter, permanent housing or utilities.

(a) The CWD shall determine the most appropriate method of payment which includes, but is not limited to, direct vendor payments, two-party or restrictive endorsement checks, or voucher payments.

.52 Temporary Shelter

The temporary shelter payment may be available no more than once in twelve months to a homeless AU for temporary shelter, when the AU is also seeking permanent housing.

.521 The temporary shelter payment is also available to homeless applicant AUs who are apparently eligible for AFDC.

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(a) Apparent eligibility for AFDC exists when evidence and/or the information provided on the application documents indicate that there would be eligibility for AFDC if the evidence and information were verified.

(1) The potentially eligible AU must agree to cooperate with the CWD in meeting the AFDC procedural requirements specified in MPP 40-129.431(b), unless good cause, as defined in MPP 43-107.4, exists.

(2) Information from any source may be considered.

(b) In determining an apparently eligible AU, do not include a person who is:

(1) An alien applicant who does not provide verification of his/her eligible alien status; or

(2) A woman with no eligible children who does not provide medical verification of pregnancy; or

(3) A person who is sanctioned.

.522 An AU is not eligible to receive the temporary shelter payment if it has already been granted permanent housing assistance during the twelve-month period described in MPP 44-211.513.

.523 The payment for temporary shelter shall be issued or denied within the same working day in which the AU requests homeless assistance, or no later than the close of business on the next working day when the CWD arranges for shelter in the interim.

.524 The temporary shelter payment shall be paid up to twenty-one consecutive days to eligible homeless AUs.

(a) The twenty-one consecutive day limit shall be extended an additional seven consecutive days for good cause.

(1) Good cause includes, but is not limited to, the following situations:

(A) The CWD determines that the AU, to the extent it is capable, has made a good faith but unsuccessful effort to find permanent housing within the twenty-one day limit; or

(B) The permanent housing located by the AU will not be available for occupancy within the twenty-one day temporary shelter period.

.525 The amount of the nonrecurring special need payment for temporary shelter shall be specified by the State Department of Social Services pursuant to the Budget Act.

(a) An AU with four or fewer members shall receive a daily amount specified in law. [HANDBOOK: (1) Effective February 1, 1988, the amount is \$30.]

(b) The fifth and each additional member of an AU shall each receive an amount equal to one-fourth of the amount specified in MPP 44-211.525(a).

(1) The total amount available to an AU with five or more members shall not exceed a maximum of two times the amount specified in MPP 44-211.525(a).

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(2) Effective February 1, 1988, the amount for the fifth and each additional member of an AU shall be \$7.50 (see MPP 44-315.323).

(c) The CWD shall not require receipts or verification of the expenditure of the payment.

.526 CWDs may grant the temporary shelter payment in increments ranging from one day's to one week's worth of payment.

.53 Permanent Housing

The permanent housing payment is available to assist homeless recipient AUs in obtaining permanent housing.

.531 A nonrecurring special need payment for permanent housing assistance shall be made only to AUs presenting evidence that the AU has found permanent housing which does not rent for more than 80% of the AU's MAP, without special needs, for an AU of that size.

(a) If the CWD determines that an AU intends to share housing costs, and the AU's share of the total housing costs does not exceed 80% of its MAP, .531 above shall not apply.

.532 An amount not to exceed two months of an AU's rent, as described in MPP 44-211.531, is available to pay for the reasonable costs of security deposits when the deposits are a condition of securing a permanent residence.

- (a) Security deposits include last month's rent and any legal payment, fee, deposit or charge that is required by a landlord as a condition of assuming occupancy.

That portion of the security deposit payment, available for last month's rent shall not exceed 80% of the AU's MAP, without special needs, for an AU of that size.

- .533 The payment for permanent housing costs may include the actual costs of utility deposits.

- (a) The payment shall cover deposits required for gas, electricity and/or water.

- (b) The payment shall not include the costs of overdue utility bills.

- .534 The CWD has one working day from the time the AU provides the following information to issue or deny a payment for permanent housing assistance:

- (a) Evidence of the availability of permanent housing costing not more than 80% of the AU's MAP, and

- (b) Information necessary for the CWD to establish eligibility for AFDC.

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- .535 Evidence of availability of housing may include, but is not limited to:

- (a) A copy of the rental agreement;
- (b) Written confirmation from the landlord;
- (c) A CWD follow-up telephone call to the landlord, with the consent of the AU;
- (d) When the CWD and AU are unable to get any confirmation, a signed statement from the AU attesting to the availability of the housing.

.536 If due to an emergency, an AU must move within the twelve-month time limit specified in MPP 44-211.513, the AU shall be allowed to transfer deposits to meet the security deposits for the new residence.

(a) An emergency cannot result from an intentional act on the AU's part.

(b) If the CWD determines that the transfer was within the twelve-month time limit, and not an emergency, refunded deposits shall be treated as liquid resources.

.46 Pregnancy Special Needs

.461 In addition to the basic grant, a pregnancy special need payment shall be authorized for all aided pregnant women, subject to the following conditions:

.4611 A pregnant woman who is not included in an FBW AU with any federally eligible persons shall be entitled to receive the pregnancy special need payment from the date of medical verification of pregnancy through the month of birth.

.4612 A pregnant woman who is included in an FBW AU with any federally eligible persons shall be entitled to receive the pregnancy special need payment beginning with the third month immediately prior to the month of anticipated birth and continuing through the month of birth, but not prior to the date of medical verification of pregnancy.

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.462 A pregnancy special need payment is \$70 per month.

Authority Cited: Sections 10553 and 10554 of the Welfare and Institutions Code.

Reference: Section 11450(f) of the Welfare and Institutions Code.

OFFICE OF ADMINISTRATIVE LAW
**CERTIFICATION
OF
APPROVAL**

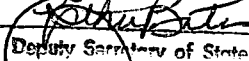
FILED

In the office of the Secretary of State
of the State of California

DEC 30 1987

At 4:36 o'clock P. M.

MARCH FONG EU, Secretary of State

By 
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Department of Social Services

OAL File No: 87-1223-03E


**LINDA STOCKDALE BREWER
DIRECTOR**

12/30/87

Date